KA / BG-GPO/2515/WPP-47/2006-2008



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೪೩	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಆಗಸ್ಟ್ ೨೧, ೨೦೦೮ (ಶ್ರಾವಣ ೩೦, ಶಕ ವರ್ಷ ೧೯೩೦)	ಸಂಚಿಕೆ ೩೪

ಭಾಗ–೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 12 ಕೇಶಾಪ್ರ 2008, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 23ನೇ ಫೆಬ್ರವರಿ 2008

2008ನೇ ಸಾಲಿನ ಜನವರಿ 31ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Forward Contracts Regulation (Amendment) Ordinance, 2008 (Ordinance No. 3 of 2008) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, 31st January, 2008 / Magha 11, 1929 (Saka)

THE FORWARD CONTRACTS (REGULATION) AMENDMENT ORDINANCE, 2008

NO. 3 OF 2008

Promulgated by the President in the Fifty-ninth Year of the Republic of India.

An Ordinance further to amend the Forward Contracts (Regulation) Act, 1952 and the Securities and Exchange Board of India Act, 1992.

WHEREAS a Bill further to amend the Forward Contracts (Regulation) Act, 1952 and the Securities and Exchange Board of India Act, 1992 has been introduced in Parliament but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for her to take immediate action to give effect to the provisions of the Bill;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :-

CHAPTER 1

PRELIMINARY

1. Short title and commencement : (1) This Ordinance may be called the Forward Contracts (Regulation) Amendment Ordinance, 2008

(2) It shall come into force at once.

CHAPTER II

AMENDMENTS TO THE FORWARD CONTRACTS (REGULATION) ACT, 1952

2. Amendment of long title : In the Forward Contracts (Regulation) Act, 1952 (74 of 1952) (hereafter in this Chapter referred to as the principal Act), in the long title, for the words "the prohibition of options in goods", the words "and to promote the development of, and to regulate, the commodity derivatives market" shall be substituted.

3. Amendment of section 2 : In section 2 of the principal Act,—

(i) for clause (a), the following clauses shall be substituted, namely:—

'(a) "Appellate Tribunal" means the Securities Appellate Tribunal established under sub-section (1). of section 15K of the Securities and Exchange Board of India Act, 1992; (15 of 1992)

(aa) "association" means any body of individuals, whether incorporated or not, constituted for the purposes of regulating and controlling the business of the sale or purchase of any goods and commodity derivative;

(ab) "Chairman" means the Chairman of the Commission referred to in clause (a) of sub-section (1) of section 3A;';

(ii) after clause (b), the following clauses shall be inserted, namely:—

'(ba) "commodity derivative" means—

(i) a contract for delivery of goods, which is not a ready delivery contract; or

(ii) a contract for differences which derives its value from prices or indices of prices of such underlying goods or activities, services, rights, interests and events, as may be notified in consultation with the Commission by the Central Government, but does not include securities;

(bb) "corporatisation" means the succession of a recognised association, being a body of individuals or a society registered under the Societies Registration Act, 1860, (21 of 1860) by another association, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in goods or commodity derivatives carried on by such individuals or society;

(bc) "demutualization" means the segregation of ownership and management from the trading rights of the members of a recognised association in accordance with a scheme approved by the Commission;';

(iii) in clause (c), after the words "delivery contract", the words "and includes contract for commodity derivative" shall be inserted;

(iv) after clause (c), the following clause shall be inserted, namely:—

'(ca) "Fund" means the Forward Markets Commission General Fund constituted under sub-section (1) of section 4E;';

(v) after clause (e), the following clauses shall be inserted, namely:— '(ea) "intermediary" means a member of the association, and includes a collateral manager, a clearing house, or such other person who is associated with the commodity derivatives market and is specified as such by the Central Government for the purposes of this Act;

(eb) "member" means a whole-time or part-time member of the Commission and includes the Chairman;';

(vi) after clause (f), the following clauses shall be inserted, namely:— '(fa) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(fb) "option in commodity derivative" means an agreement, by whatever name called, for trading in a commodity derivative and includes a teji, a mandi, a teji-mandi, a gali, a put, a call or a put and call in commodity derivative;';

(vii) in clause (i),

(A) for the words "eleven days", the words "thirty days" shall be substituted;

(B) in the Explanation, in clause (i), after the word and figures "Act, 1970" the words, figures and brackets "or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act,. 1980" (40 of 1980) shall be inserted;

(viii) in clause (j), for the words and figure "the central Government under section 6 in respect of goods or classes of goods", the words and figure "the Commission under section 6 in respect of forward contract or classes of forward contracts" shall be substituted;

(ix) for clause (jj), the following clause shall be substituted, namely:— '

(jj) "regulations" means the regulations made by the Commission under this Act;';

(x) after clause (k), the following clause shall be inserted, namely:— .'(ka) "scheme" means a scheme for corporatisation or demutualization of a recognised association which may provide for

(A) the issue of shares for a lawful consideration and provision for trading rights in lieu of membership cards of members of a recognized association;

(B) the restrictions on voting rights;

(C) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised association, legal proceedings by, or against, the recognised association, whether in the name of the recognised association or any trustee or otherwise and any permission given to, or by, the recognised association;

(D) the transfer of employees of a recognised association to another recognised association;

(E) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised association;';

(xi) in clause (m), for the words "forward contract which provides for", the words "forward contract which provides for, and is performed by," shall be substituted.

4. amendment of Section 3 : In Section 3 of the principal Act, for sub-sections (2), (3), (4) and (5), the following sub-section shall be substituted, namely:—

"(2) The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.".

5. Insertion of new sections 3A, 3B, 3C, 3E, 3F, 3G and 3H : After section 3 of the principal Act, the following sections shall be inserted, namely:—

"3A. Management of Commission : (1) The Commission shall consist of the following members, namely:—

(a) a Chairman;

(b) two members from amongst the officials of the Ministries or Departments of the Central 'Government dealing with Consumer Affairs, Commodity Derivatives, Food and Public Distribution, Agriculture or Finance;

(c) one member from amongst the officials of the Reserve Bank;

(d) five other members of whom at least three shall be the whole- time members.

(2) The general superintendence, direction and management of the affairs of the Commission shall vest in a board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Commission.

(3) Save as otherwise determined, by regulations, the Chairman shall have powers of general superintendence and direction of the affairs of the Commission and may also exercise all powers and do all acts and things which may be exercised or done by the Commission.

(4) The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the Reserve Bank, respectively.

(5) The Chairman and other members referred to in clauses (a) and (d) of subsection (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to commodity markets or who have special knowledge or experience of commerce or economics or law or finance or in administration or have practical experience in any matter which renders them suitable for appointment on the Commission:

Provided that every person appointed as Chairman and every other person appointed as member of the Commission and holding office as such immediately before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall, notwithstanding any order for their appointment made under sub-section (2) of section 3 as it stood before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall hold office till the Chairman or other member has been appointed in accordance with this section after such commencement and no person shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service.

3B. Term of office and conditions of service of Chairman and members of Commission : (1) The term of office and other conditions of service of the Chairman and the members referred to in clause (d) of sub-section (1) of section 3A shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (d) of sub-section (1) of section 3A, at any time before the expiry of the period prescribed under sub-section (1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his office, at any time before the expiry of the period prescribed under sub-section (1), by giving to the Central Government notice of not less than three months in writing.

3C. Removal of member from office : The Central Government shall remove a member from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) is of unsound mind and stands so declared by a competent court;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;

(d) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

3D. Meetings of Commission : (1) The Commission shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings including quorum at such meetings as may be provided by regulations.

(2) The Chairman or, if for any reason he is unable to attend the meeting of the Commission, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Commission shall be decided by a majority of votes of the members of the Commission present and voting, and in the event of an equality of votes, the Chairman or in his absence the member presiding, shall have a second or casting vote.

3E. Vacancies etc not to invalidate proceedings of Commissions : No act or proceeding of the Commission shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Commission; or

(b) any defect in the appointment of a person acting as a member of the Commission; or

(c) any irregularity in the procedure of the Commission not affecting the merits of the case.

3F. Member not to participate in meetings in certain cases : Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Commission, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Commission, and the member shall not take any part in any deliberation or decision of the Commission with respect to that matter.

3G. Bar on future employment of members : The Chairman and the whole-time members shall not, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept any employment with any person dealing with the commodities derivatives or with any intermediary.

3H. Officers and employees of Commission : (1) The Commission may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of service of the officers and employees of the Commission appointed under sub-section (1) shall be such as may be determined by regulations:

Provided that every officer and other employee holding any office under the Commission, before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall continue to hold his office as such after such commencement for the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the said Ordinance had not come into force and shall continue to do so as an officer or other employee of the Commission until the regulations are made under this sub-section or the expiry of one year from the date of such commencement or till the date on which such officer or other employee opts not to be the officer or other employee of the Commission, whichever is earlier.".

6. Amendment of section 4 : In section 4 of the principal Act,—

(a) for clause (a), the following clauses shall be substituted, namely:—

"(a) to advise the Central Government in respect of matters arising out of the administration of this Act;

(aa) to grant or withdraw recognition of any association;";

(b) in clause (e), for the words "registered association or any member of such association", the words "any member of such association or any intermediary" shall be substituted;

(c) for clause (f) the following clauses shall be substituted, namely:—

"(f) to regulate the business of the associations;

(g) to regulate the functioning of members of the associations, clearing houses, warehouses and intermediaries;

(h) to levy fees for carrying out the purposes of this Act;

(i) to conduct research for the purpose of development and regulation of commodity derivatives market;

(j) to call from or furnishing to any such agencies, as may be specified by the Commission, such information as. may be considered necessary by it for the efficient discharge of its functions;

(k) to protect the interests of the market participants in commodity derivatives markets;

(l) to promote and regulate self-regulatory organisations;

(m) to prohibit fraudulent and unfair trade practices relating to commodity derivatives markets;

(n) to promote investors' education and training of intermediaries;

(o) to prohibit insider trading in commodity derivative;

(p) to advise the Central Government as to the goods in respect of which forward contract or option in goods or option in commodity derivative may be notified;

(q) to perform such other duties and exercise such other powers as may be assigned to the Commission by or under this Act, or as may be prescribed.".

7. Amendment of section 4A : In section 4A of the principal Act, in sub-section (3), —

(a) for the words and figures "the Code of Criminal Procedure, 1898" (5 of 1898), the words and figures "the Code of Criminal Procedure, 1973" (2 of 1974) shall be substituted;

(b)for the word and figures "section 482", the word and figures "section 346" shall be substituted.

8. Insertion of new sections 4B and 4C. : After section 4A of the principal Act, the following sections shall be inserted, namely:—

"4B. Power to issue directions by Commission : Save as otherwise provided in section 4, if after making or causing to be made an inquiry, the Commission is satisfied that it is necessary, in the interest of trade and orderly development of commodity derivatives market, it may issue directions to any intermediary or association.

4C. Cease and desist proceedings : If the Commission finds, after causing an inquiry to be made, that any person has violated, or is likely to violate any provisions of this Act or any rules or regulations made there under, the Commission may pass an order requiring such person to cease and desist from committing or causing such violations.".

9. Insertion of new Chapter IIA : After Chapter II of the principal Act, the following Chapter shall be inserted, namely:—

CHAPTER II A

FINANCE, ACCOUNTS AND AUDIT

4D. Grants by Central Government : The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Commission grants of such sums of money as that Government may think fit for being utilised for the purposes of this Act.

4E. Fund : (1) There shall be constituted a -Fund to be called the Forward Markets Commission General Fund and there shall be credited thereto—

(i) all grants and fees received by the Commission under this Act;

(ii) all sums received by the Commission from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(i) the salaries, allowances and other remuneration of the members, officers and other employees of the Commission;

(ii) the expenses of the Commission in the discharge of its functions under section 4;

(iii) the expenses on objects and for purposes authorised by this Act:

Provided that the sums authorised to be paid and applied from and out of the Consolidated Fund of India and appropriated by law made by Parliament for the services and purposes of the Commission shall continue to be paid and applied for such services and purposes of the Commission till the Fund is constituted under this section.

4F. Accounts and audit : (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General of India

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Commission shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts, and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.".

10. Amendment of Section 5 : In section 5 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "forward contracts", the words "forward contracts or option in goods or option in commodity derivative" shall be substituted;

(ii) for the words "Central Government", the word "Commission" shall be substituted;

(b) in sub-section (2), for the words "forward contracts", the words "forward contracts or option in goods or option in commodity derivative" shall be substituted;

(c) the following proviso shall be inserted at the end, namely:—

"Provided that the applications made to the Central Government, on or before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008 and pending with the Central Government on such date, shall be transferred to the Commission and thereafter the Commission shall dispose of such applications in accordance with the provisions of this Act.".

11. Amendment of section 6 : In section 6 of the principal Act,—

(a) in sub-section (1),

(i) for the words "Central Government", the word "Commission" shall be substituted;

(ii) for the words "the goods or classes of goods with respect to which forward contracts may be entered", the words "the goods or classes of goods or commodity derivative or classes of commodity derivatives with respect to which forward contracts or options may be entered" shall be substituted;

(b) in sub-section (2),— -

(i) for the words "Central Government", at both the places where they occur, the word "Commission" shall be substituted;

(ii) in clause (b), for the words "of not more than three persons", the words "such number of persons as the Commission may, having regard to the interest of trade in commodities and commodities derivatives, specify," shall be substituted;

(c) in sub-section (3), for the words "Central Government", the word "Commission" shall be substituted;

(d) after sub-section (4), the following proviso shall be inserted, namely:—

"Provided that the recognition granted by the Central Government, before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall be deemed to have been granted by the Commission in accordance with the provisions of this Act.".

12. Substitution of new section for section 7 : For section 7 of the principal Act, the following sections shall be substituted, namely:—

'7. Withdrwal of recognition : (1) If the Commission is of opinion that any recognition granted to an association under the provisions of this Act should, in interest of the trade or in the public interest, be

withdrawn, the Commission may, after giving a reasonable opportunity to the association to be heard in the matter, withdraw, by notification, the recognition granted to the said association:

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Commission may make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contract outstanding on that date.

(2) Where the recognised association has not been corporatised or demutualised or it fails to submit the scheme referred to in sub-section (1) of section 7B within the specified time therefor or the scheme has been rejected by the Commission under sub-section (5) of section 7B, the recognition granted to such association under section 6, shall, notwithstanding anything contained contrary to any other provision of this Act, stand withdrawn and the Commission shall publish, by notification, such withdrawal of recognition:

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Commission may, after consultation with the association, make such provisions as it deems fit, in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section 7B.

7A. Corporation and demutualisation of associations : On and from the appointed date, all recognized associations (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 7B:

Provided that different appointed dates may be appointed for different recognized associations:

Provided further that the Commission may, if it is satisfied that any recognized association was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date, extend the appointed date specified in respect of that recognized association and such recognized association may continue as such before such appointed date.

Explanation.- For the purposes of this section, “appointed date” means the date which the Commission may, by notification, appoint.

7B. Procedure for corporation and demutualisation : (1) All recognized associations referred to in section 7A shall, within such time as may be specified by the Commission, submit a scheme for corporatisation and demutualisation for its approval:

Provided that the Commission may, by notification, specify name of the recognised association, which had already been-corporatised and demutualised, and such association shall not be required to submit the scheme under this section.

(2) On receipt of the scheme referred to in sub-section (1), the Commission may, after making such inquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade in goods or commodity derivatives and also in the public interest, approve the scheme with or without modification.

(3) No scheme under sub-section (2) shall be approved by the Commission if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised association or payment-of dividends to members have been proposed out of any reserves or assets of that association.

(4) Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by—

(a) the Commission in the Official Gazette;

(b) the recognised association in such two daily newspapers circulating in India, as may be specified by the Commission, and upon such publication, notwithstanding anything contained contrary to any other provision of this Act or in any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be

binding on all persons and authorities including all members, creditors, depositors and employees of the recognised association and on all persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised association or its members.

(5) Where the Commission is satisfied that it would not be in the interest of the trade in goods or commodity derivatives and also in the public interest to approve the scheme- under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette:

Provided that the Commission shall give a reasonable opportunity of being heard to all the persons concerned and the recognised association concerned before passing an order rejecting the scheme.

(6) The Commission may, while approving the scheme under sub-section (2), by an order in writing, restrict—

(a) the voting rights of the shareholders who are also members of the recognised association;

(b) the right of shareholders or a member of the recognised association to appoint the representatives on the governing board of the association;

(c) the maximum number of representatives of the members of the recognized association to be appointed on the governing board of the association, which shall not exceed one-fourth of the total strength of the governing board.

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956, (1 of 1956) or in any other law for the time being in force, have full effect.

(8) Every recognised association, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2) shall, either by fresh issue of equity shares to the public or in any other manner as may be specified by the regulations made by the Commission, ensure that at least fifty-one per cent. of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights:

Provided that the Commission may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.'.

13. Amendment of section 8 : In section 8 of the principal Act,—

(a) in sub-sections (1) and (2) for the words "Central Government" wherever they occur, the words "Central Government or Commission" shall respectively be substituted;

(b) in sub-section (2), in clause (c), for the words "direct the Commission", the words "direct any agency or any of its officers" shall be substituted;

(c) in sub-section (3) for the word "inquiry" wherever it occurs, the words "inquiry or inspection" shall be substituted.

14. Amendment of section 9A : In section 9A of the principal Act, in sub-section (2),—

(a) for the words "Central Government" wherever they occur, the words "Central Government or Commission" shall be substituted;

(b) for the words "that Government", the words "that Government or Commission" shall be substituted.

15. Substitution of new sections for section 10 : For section 10 of the principal Act, the following sections shall be substituted, namely:—

"10. Power of Commission to direct rules to be made or to make rules : (1) When ever the Commission considers it expedient so to do, it may, by order in writing, direct any recognised association to make any rules or to amend any rules made by the recognised association within such period, as it may specify in this behalf.

(2) If any recognized association, against whom an order is issued by the Commission under sub-section (1) fails or neglects to comply with such order within the specified period, the Commission may make the rules or amend the rules made by the recognized association, as the case may be, either in the form specified in the order or with such modification thereof as the Commission may think fit.

(3) Where, in pursuance of sub-section (2), any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India, and shall, thereupon, have effect notwithstanding anything to the contrary contained in the Companies Act, 1956 or any other law for the time being in force, as if they had been made or amended by the recognized association concerned.

10A. Clearing corporation : (1) A recognized association may, with the prior approval of the Commission, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956, (1 of 1956) for the purposes of—

(a) the periodical settlement of contracts and differences thereunder;

(b) the delivery of, and payment for, goods;

(c) any other matter incidental to, or connected with, such transfer.

(2) Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1), make bye-laws and submit the same to the Commission for its approval.

(3) The Commission may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the bye-laws submitted to it under sub-section (2) and approve transfer of the duties and-functions, of clearing house to a clearing corporation referred to in sub-section (1).

(4) The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 1 2A, 12B and 13 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1) as they apply in relation to a recognised association.".

16. Amendment of section 11 : In section 11 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "Central Government", the word "Commission" shall be substituted;

(ii) for the words "forward contracts", the words "forward contracts or option in goods or option in commodity derivative" shall be substituted;

(b) in sub-section (2), after the word "goods" wherever it occurs, the words "or forward contracts or option in goods or option in commodity derivative" shall be inserted;

(c) in sub-section (3), in clause (aa), for the brackets, figure and letter "(3A)", the brackets and figure "(4)" shall be substituted;

(d) in sub-section (4) and the proviso, for the words "Central Government" at both the places where they occur, the word "Commission" shall be substituted.

17. Substitution of new sections for sections 12 and 12 A : For sections 12 and 12A of the principal Act, the following sections shall be substituted, namely:—

"12. Power of Commission to make or amend bye-laws of recognized association : (1) The-Commission may, either on a request in writing received by it in this behalf from the governing body of a recognised association, or if in its opinion it is expedient so to do, make bye-laws for all or any of the matters specified in section 11 or amend any bye-laws made by such association under that section.

(2) Where, in pursuance of this section, any bye-laws have been made or amended, the bye-laws so made or amended shall be published in the Gazette of India and shall thereupon have effect as if they had been made or amended by the recognised association.

(3) Notwithstanding anything contained in this section, where the governing body of a recognized association objects to any bye-laws made or amended under this section by the Commission on its own motion, it may, within six months of the publication thereof under sub-section (2), apply to the Commission

for a revision thereof, and the Commission may, after giving a reasonable opportunity to the governing body of the association to be-heard in the matter, revise the bye-laws so made or amended, and where any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the bye-laws so revised shall be published and shall become effective as provided in sub-section (2).

(4) The making or amendment or revision of any bye-laws under this section shall in all cases be subject to such conditions in regard to the previous publications as may be prescribed:

Provided that the Commission may, in the interest of the trade or in the public interest, by order in writing, dispense with the condition of previous publication.

12A. Application of amendment of bye-laws to existing forward contracts or option in goods or option in commodity derivative : Any amendment of a bye-law made under section 11 other than an amendment made in pursuance of clause (a) or clause(aa) of sub-section (3) of that section or under section 12 shall also apply to all forward contracts or option in goods or option in commodity derivative entered into before the date of its approval by the Commission or before the date of its publication in the Gazette of India, as the case may be, and remaining to be performed on or after the said date.".

18. Amendment of section 12 B : In section 12B of the principal Act,—

(a) in sub-section (1),—

(i) for the words "forward contract", the words "forward contract or option in goods or option in commodity derivative" shall be substituted;

(ii) the words "of any goods or class of goods" shall be omitted;

(iii) after the words "any such contract", the words "or option in goods or option in commodity derivatives" shall be inserted;

(b) in sub-section (3), for the words "forward contract" at both the places where they occur, the words "forward contract or option in goods or option in commodity derivative" shall be substituted.

19. Substitution of new section for section 133 : For section 13 of the principal Act, the following section shall be substituted, namely:— -

"13. Power of commission to supersede governing body of recognized association : (1) Without prejudice to any other powers vested in the Commission under this Act, where the Commission is of the opinion that the governing body of any recognised association should be superseded, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the Commission may, after giving a reasonable opportunity to the governing body of the recognized association concerned to show cause why it should not be superseded, by notification, declare the governing body of such association to -be superseded for such period not exceeding six months as may be specified in -the notification, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and where more persons than one are appointed, may appoint one of such persons to be the chairman and another of such person to be the vice-chairman.

(2) On the publication of a notification under sub-section (1), the following consequences shall ensue, namely:—

(a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession, cease to hold office as such members;

(b) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded;

(c) all such property of the recognised association as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry out the purposes of this Act, shall vest in such person-or persons.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the association whose governing body is superseded under sub-section (1), the person or persons appointed

under that sub-section shall hold office for such period as may be specified in the notification published under that sub-section, and the Commission may, from time to time, by like notification, vary such period.

(4) On the determination of the period of office of any person or persons appointed under this section, the recognised association shall forthwith reconstitute a governing body in accordance with its rules:

Provided that until a governing body is so reconstituted, the person or persons appointed under sub-section (1), shall, notwithstanding anything contained in sub-section (1), continue to exercise and perform their powers and duties.

(5) On the reconstitution of a governing body under sub-section (4), all the property of the recognised association which had vested in, or was in the possession of, the person or persons appointed under sub-section (1), shall vest or revest, as the case may be, in the governing body so reconstituted.".

20. Amendment of section 14 : In section 14 of the principal Act, for the words "Central Government" at both the places where they occur, the word "Commission" shall be substituted.

21. Substitution of new Chapter for Chapter III A : For Chapter IIIA of the principal Act, the following Chapter shall be substituted, namely:—

"CHAPTER III A

REGISTRATION OF MEMBERS AND INTERMEDIARIES

14A. Registration of members and intermediaries : (1) On and from the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, no person intending to act as a member or intermediary shall deal in forward contract or option in goods or option in commodity derivative except under and in accordance with the conditions of a certificate of registration granted by the Commission in accordance with the regulations made under this Ordinance.

(2) A person, who in his capacity as a member or intermediary intends to deal in forward contract or option in goods or option in commodity derivative shall make an application for a certificate of registration to the Commission in such form along with such fee and containing such particulars as may be provided by regulations:

Provided that a person who was acting as a member or intermediary, before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, may continue to do so for a period of six months from the date of such commencement if he has made an application for registration within the said period of six months, till the disposal of such application, whichever is later:

Provided further that the Commission may, by regulations, specify different fees for a class or classes of members or intermediaries on the basis of turnover of the business of such members or intermediaries.

(3) No foreign participant or foreign intermediary associated with the commodity derivatives market, as the Commission may, by notification in this behalf, specify, shall deal in forward contract or option in goods or option in commodity derivative except under and in accordance with the conditions of a certificate of registration obtained from the Commission in accordance with the regulations made under this Ordinance:

Provided that a foreign participant or foreign intermediary dealing in forward contract or option in goods or option in commodity derivative immediately before the commencement of this Ordinance, for which no certificate of registration was required prior to such commencement, may continue to deal in forward contract or option in goods until such time as rules may be made by the Central Government for such dealings or in case no such rules have been made until permitted as such by the Commission by notification.

(4) On receipt of an application under sub-section (2), the Commission may, after making such inquiry as it considers necessary in this behalf, by order in writing, grant a certificate of registration on such terms and conditions as may be specified by regulations or refuse to grant such certificate:

Provided that, before refusing to grant such certificate, the person making the application shall be given an opportunity of being heard in the matter.

14B. Suspension or cancellation of certificate of registration : The Commission may, by order, suspend or cancel the certificate of registration in such manner as may be provided by regulations:

Provided that no order under this section shall be made unless the person concerned has been given an opportunity of being heard in the matter.".

22. Substitution of new sections for sections 15, 16 and 17 : For sections 15, 16 and 17 of the principal Act, the following sections shall be substituted, namely:—

"15 Forward contracts illegal or void in certain circumstances : (1) Subject to the provisions contained in sections 17 and 18, every forward contract, entered into otherwise than between members of a recognized association or through or with any such member, shall be illegal.

(2) Any forward contract entered into in pursuance of sub-section (1) which is in contravention of any of the bye-laws specified in this behalf under clause (a) of sub-section (3) of section 11 shall be void—

(a) as respects the rights of any member of the recognised association who has entered into contract in contravention of any such bye-law and also,

(b) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(3) Nothing in sub-section (2) shall affect the right of any person other than a member of the recognised association to enforce any such contract or to recover any sum under or in respect of such contract:

Provided- that such person had no knowledge that such transaction was in contravention of any of the bye-laws specified under clause (a) of sub-section (3) of section 11.

(4) Any forward contract entered into in pursuance of sub-section (1) which at the date of the contract is in contravention of any of the bye-laws specified in this behalf under clause (aa) of sub-section (3) of section 11 shall be illegal.

(5) No member of a recognised association shall enter into any contract, on his own account with any person other than a member of the recognised association, unless he has secured the consent or authority of such person and discloses in the note, memorandum or agreement of sale or purchase that he has bought or sold the forward contract, as the case may be, on his own account:

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure a written confirmation by such person of such consent or authority within three days from the date of such contract:

Provided further that in respect of any outstanding contract entered into by a member with a person other than a member of the recognised association, no consent' or authority of such person shall be necessary for closing Out in accordance with the bye-laws, the outstanding contract, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he has bought or sold the goods, forward contract or option in goods. or option in commodity derivative, as the case may be, on his own account.

16. Consequences of contravention of section 15 : Notwithstanding anything contained in any other law for the time being in force or in any custom, usage or practice of the trade or the terms of any contract or the bye-laws of any association concerned relating to any contract,—

(a) every forward contract entered into on or before the date of commencement mangement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, and remaining to be performed after the said date and which is not in conformity with the provisions of section 15, shall be deemed to be closed out at such rate as the Commission may fix in this behalf and different rates may be fixed for different classes of such contracts;

(b) all differences arising out of any contract so deemed to be closed out shall be payable on the basis of the rate fixed under clause (a) and the seller shall not be bound to give and the buyer shall not be bound to take delivery of the goods.

17. Power to prohibit forward contract or options in goods or option in commodity derivative : (1) The Central Government may, by notification, declare that no person shall, save with the permission of the Central Government, deal in any forward contract -or option in goods or option in commodity derivative specified in the notification, except to the extent and in the manner, if any, as may be specified in the notification.

(2) All forward contracts or options in goods or options in commodity derivative in contravention of the provisions of sub-section (1) entered into after the date of publication of the notification thereunder shall be illegal.

(3) Where a notification has been issued under sub-section (1), the provisions of section 16 shall, in the absence of anything to the contrary in the notification, apply to all forward contracts and options in goods for the sale or purchase of any goods specified in the notification (entered into on or before the date of the notification) and remaining to be performed after the said date.". –

23. Amendment of section 18 : In section 18 of the principal Act,—

(a) in sub-section (1),

(i) 'for the words "non-transferable specific delivery contracts", the words and brackets "specific delivery contracts (both transferable and non-transferable)" shall be substituted;

(ii) in the proviso, for the words "non-transferable specific delivery contract",- the words and brackets "specific delivery contracts (both transferable and non-transferable)" shall be substituted;

(b) sub-section (2) shall be omitted;

(c) in sub-section (3), for the words "non-transferable specific delivery contracts" at both the places where they occur, the words and brackets "specific delivery contracts (both transferable and non-transferable)" shall be substituted.

24. Substitution of new section for section 19 : For section 19 of the principal Act, the following section shall be substituted, namely:—

"19. Option in goods or option in commodity derivative illegal in certain circumstances : (1) Any option in goods or option in commodity derivative which has been entered into on or after the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, otherwise than between members of a recognised association or through or with any such member shall be illegal.

(2) The provisions of sub-sections (2), (3), (4) and (5) of section 15 shall apply to options in goods or option in commodity derivative as they apply in relation to a forward contract.".

25. Amendment of section 20 : In section 20 of the principal Act,—

(i) in clause (a), in sub-clause (iii), for the words "forward contract", the-words "forward contract or option in goods or option in commodity derivative" shall be substituted;

(ii) clause (b) shall be omitted;

(iii) in clause (c), for the words "forward contract", the words "forward contract or option in goods or option in commodity derivative" shall be substituted;

(iv) after clause (d), the following clause shall be inserted, namely:—

"(da) fails to make or accept delivery of goods covered by non- transferable specific delivery contracts or by transferable specific contracts where rights and obligations have not been transferred, as the case may be; or";

(v) for clause (e), the following clause shall be substituted, namely:—

"(e) enters into any forward contract or option in goods or option in commodity derivative in contravention of any of the provisions contained in sub-section (1) or sub-section (4) or sub-section (5) of section 15 or section 17 or section 19,";

(vi) after the words "shall, on conviction, be punishable—" occurring below clause (e),—

(A) in clause (i), for the words "one thousand rupees", the words "twenty-five thousand rupees but which may extend to twenty-five lakh rupees" shall be substituted;

(B) in clause (ii),

(i) for the words, brackets and letter "under clause (d)", the words, brackets and letters "under clause (d) or under clause (da)" shall be substituted;

(ii) for the words "one thousand rupees", the words "twenty-five thousand rupees" shall be substituted.

26. Amendment of section 21 : In section 21 of the principal Act,—

(i) in clauses (a) to (J) for the words "forward contracts" wherever they occur, the words "forward contract or option in goods or option in commodity derivative" shall be substituted;

(ii) in clause (g), for the words and figures "in respect of goods to which the provisions of section 15 have been made applicable", the words "in respect of goods or option in goods or option in commodity derivative" shall be substituted; -

(iii) for clause (h), the following clause shall be substituted, namely:— "(h) manipulates or attempts -to manipulate prices in respect of forward contracts or option in goods or option in commodity derivative;";

(iv) after the words "shall, on conviction, be punishable—" occurring below clause (h), in clauses (i) and (ii), for the words "one thousand rupees", the words "twenty-five thousand rupees but which may extend to twenty-five lakh rupees" shall be substituted. -

27. Substitution of new sections for section 21A: For section 21A of the principal Act, the following sections shall be substituted, namely:—

"21A. Penalty for failure to furnish information, return, etc: If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Commission, fails to furnish the same, he shall be liable to a penalty of twenty thousand rupees for each day during which such failure continues or five lakh rupees, whichever is less; -

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file or furnish the same within the time specified therefor in the regulations, he shall be liable to pay a penalty not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is less;

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of ten thousand rupees for each day during which such failure continues or five lakh rupees, whichever is less;

(d) or who was in charge of, and was responsible to, an association for the conduct of the business of the association, obstructs any officer of the Commission or any other person authorised by it to conduct inspection or to discharge any other function assigned by the Commission, such person as well as the association shall be liable to pay a fine of rupees One lakh for every occasion of such obstruction.

21B. Penalty for failure by any person to enter into an agreement with clients : If any person, who is registered as a member or an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to a penalty of twenty thousand rupees for each such failure during which such failure continues or five lakh rupees, whichever is less.

21C. Penalty for failure to redress clients grievances : If any person, who is registered as a member or an intermediary, after having been called upon by the Commission in writing to redress the grievances of clients, fails to redress such grievances within the time specified by the Commission, he shall be liable to a penalty not exceeding two thousand rupees for each day during which such failure continues of five lakh rupees, whichever is less.

21 D. Penalty for insider trading : If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in forward contract or option in goods or option-in commodity derivative on any association on the basis of any unpublished price sensitive information; or

(ii) communicates any unpublished price sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any forward contract or option in goods or option in commodity derivative on the basis of unpublished price sensitive information,

shall be liable to a penalty of twenty-five lakh rupees or three times, the amount of profits made out of insider trading, whichever is higher.

21E. Penalty for fraudulent and unfair trade practices : If any person indulges in fraudulent and unfair trade practices relating to forward contract or option in goods or -option in commodity derivative, he shall be liable to a penalty of twenty-five lakh rupees or three times the amount of profits made out of-such practices, whichever is higher.

21F. Penalty for default in case of an Intermediary : If any person, who is registered as an intermediary under this Act or any regulations made thereunder,

(a) fails to issue contract notes in the form and manner specified by the association of which such intermediary is a member, he shall be liable to a penalty not exceeding five times the amount for which the contract note was required to be issued by that intermediary;

(b) fails to deliver any goods or fails to make payment of the amount due to the client or in the manner or within the period specified in the regulations, he shall be liable to a penalty not exceeding five -thousand rupees - for each day during which such failure continues;

(c) charges an amount of brokerage which is in excess of the brokerage specified by the association, he shall be liable to a penalty of five thousand rupees or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.

21G. Penalty for failure to comply with directions of commission : Any person, who fails to comply with the directions issued by the Commission under section 4B, shall be liable to pay a penalty not exceeding two lakh rupees for each day during which such failure continues which may extend to five lakh rupees.

21 H. Consequences of failure to pay penalty : (1) Without prejudice to any -award of penalty by the adjudicating officer under this Act, if any person -contravenes or attempts to contravene or abets the contravention any of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years or with fine or with both.

21-I. Power to adjudicate :(1) For the purposes of adjudging under sections 21 A to 21 G, the Commission shall appoint any of its officers not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit-in accordance with the provisions of any of those sections. –

21J. Factors to be taken into account by adjudicating officer : While adjudging the quantum of penalty under section 21-I, the adjudicating officer shall have due regard to the following factors, namely:—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to a client or group of clients as a result of the default;

(c) the repetitive nature of the default.

21K. Crediting sums realized by way of penalties to Consolidated Fund of India : All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India. –

21L. Power of court to order forfeiture of property : Any court trying an offence punishable under this Act, may, if it thinks fit and in addition to any sentence which it may impose for such offence, direct that any money, goods or other property in respect of which the offence has been committed, shall be forfeited to the Central Government.

Explanation- For the purposes of this section, property in respect of which an offence has been committed, shall include deposits in a bank where the said property is converted into such deposits."

28. Amendment of section 22A. : In section 22A of the principal Act,—

(a) in sub-section (1),—

(i) after the words "forward contracts or options in goods", the words "or option in commodity derivative" shall be inserted;

(ii) after the words "forward contract or option in goods", the words "or option in commodity derivative" shall be inserted;

(b) for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to search or seizure made under sub-section (1) as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

(3) The Commission may, notwithstanding anything contained in this Act, file cases in respect of offences committed under this Act, directly to the courts having jurisdiction in respect of such offences."

29. Amendment of section 22B : In section 22B of the principal Act, in sub-section (1), after the words "or option in goods", the words "or option in commodity derivative" shall be inserted.

30. Insertion of new section 22C : After section 22B of the principal Act, the following section shall be inserted, -namely:—

"22C. Investigation : (1) Where the Commission has reasonable grounds to believe that

(a) the transactions in forward contracts or option in goods or option in commodity derivative are being dealt with in a manner detrimental to the commodity market or person associated with the commodity market; or –

(b) any intermediary or any person associated with the commodities market has violated any of the provisions of this Act or the rules or regulations made or directions issued by the Commission thereunder, it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or person associated with the commodities market and to report thereon to the Commission.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956. it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 14A, every person associated with the commodities market to preserve and to produce to the Investigating Authority or any person authorised by him in this behalf, all the books, registers, other documents and record of, or relating to,- the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3) The Investigating Authority may require any intermediary or any person associated with commodities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by him in this behalf as he may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter shall return the same to any intermediary or any person associated with commodities market by whom or on whose behalf the books, registers, other documents and record are produced:

Provided that the Investigating Authority may call for any books, registers, other documents and record if they are needed again:

Provided further that if the person on whose behalf the, books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with commodities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before him personally.

(6) If any person fails without reasonable cause or refuses—

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or

(b) to furnish any information which is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes. of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to one year, or with fine, which may extend to one lakh rupees, or with both, and also with a further fine which may extend to twenty thousand rupees for every day after the first during which the failure or refusal continues.

(7) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him. –

(8) Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with commodities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial Magistrate of the first class having jurisdiction for an order for the seizure of such books, registers, other documents and record.

(9) After considering the application and hearing the Investigating Authority, if necessary, the Magistrate may, by order, authorise the Investigating Authority—

(a) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books, registers, other documents and record, as it considers necessary for the purposes of the investigation.

(10) The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the -conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized and inform the Magistrate of such returns

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(11) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, (74 of 1952) relating to searches or seizures made under that Code.".

31. Amendment of section 23 : In section 23 of the principal Act, after clause (d), the following clause shall be inserted, namely:—

"(e) an offence falling under section 21 H.".

32. Insertion of new section 24 A : In Chapter V of the principal Act, after section 24, the following section shall be inserted, namely:—

"24A. Civil court not to have jurisdiction : No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.".

33. Insertion of new Chapter VA : After Chapter V of the principal Act, the following Chapter shall be inserted, namely:—

'CHAPTER VA

JURISDICTION AND AUTHORITY OF APPELLATE TRIBUNAL

24B. Appeal to Appellate Tribunal : (1) Save as provided in sub-section (2), any person aggrieved on or after the commencement of the Forward Contracts (Regulation) Amendment Ordinance. 2008, or by an order of the Commission made, or the rules or regulations made thereunder or by an order made by an adjudicating officer under this Act may prefer an appeal to the Appellate Tribunal having jurisdiction in the matter.

(2) The Central Government shall specify, by notification, the matters and places in relation to which the Appellate Tribunal may exercise jurisdiction.

(3) No appeal shall lie to the Appellate Tribunal from an order made by the Commission or an adjudicating officer with the consent of the parties.

(4) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Chairman of the Commission is received by the aggrieved person and it -shall -be in such form and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filing it within that period. - -

(5) On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(6) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned authority whose order has been appealed against.

(7) The appeal filed before the Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

24C. Right to legal representation : The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal.

Explanation.- For the purposes of this section,

(a) "chartered accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) "company secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) "cost accountant" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

24D. Limitation : The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to the Appellate Tribunal.

24E. Appeal to Supreme Court : Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.".

34. Insertion of new sections 26A, 26B, 26C, 26D, 26E and 26F : After section 26 of the principal Act, the following sections shall be inserted, namely:—

"26A. Power of Central Government to issue directions : (I) Without prejudice to the foregoing provisions of this Act, the Commission shall, in exercise of its powers or performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Commission shall, as far as practicable, be given an opportunity to express its views before any direction is given under this subsection.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

26B. Power of Central Government to supersede Commission : (1) If at any time the Central Government is of the opinion—

(a) that on account of grave emergency, the Commission is unable to discharge the functions and perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Commission has persistently made wilful default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and perform the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Commission or the administration of the Commission has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification, supersede the commission for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (I) superseding the Commission,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Commission shall, until the Commission is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Commission shall, until the Commission is reconstituted, vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Commission by fresh appointment and in such case any person or persons who vacated their offices under clause (a) of sub-section (2), shall not be deemed disqualified for such appointment:

Provided that the Central Government may at any time before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

26C. Returns and reports :(1) The Commission shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the commodities market, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Commission shall, within ninety days, after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the, previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

26D. Delegation : The Commission may, by general or special order in writing, delegate to any member or officer of the Commission or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 28) as it may deem necessary.

26E. Bar of Jurisdiction : No order passed by the Commission or the adjudicating officer under this Act shall be appealable except as provided in section 24B and no civil court shall have jurisdiction in respect of any matter which the Commission or the adjudicating officer is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the Commission or the adjudicating officer by, or under, this Act.

26F. Members, officers and employees of commission to be public servants : All members, officers and other employees of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.". (45 of 1860)

35. Insertion of new section 27B : After section 27A of the principal Act, the following section shall be inserted, namely:— -

"27B. Exemption from tax on wealth and income : Notwithstanding anything contained in the Wealth-tax Act, 1957, (27 of 1957) the Income-tax Act, 1961, (43 of 1961) or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Commission shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.".

36. Amendment of section 28 : In section 28 of the principal Act, in sub-section (2),—

(i) clause (cc) shall be omitted;

(ii) for clause (g), the following clauses shall be substituted, namely:—

“(g) the duties and powers which maybe performed.or exercised by the Commission under clause (q) of section 4;

(h) the form and manner in which the annual statement of accounts shall be maintained under sub-section (1) of section 4F;

(i) the rules for dealing by foreign participant or foreign intermediary under the proviso to sub-section (3) of section 14A;

(j) the manner in which an inquiry shall be held under sub-section (1) of section 21-I;

(k) the form in which an appeal may be filed before the Appellate Tribunal under sub-section (4) of section 24B and the fees payable in respect of such appeal;

(l) the form and the manner in which returns and report to be made to the Central Government under section 26C;

(m) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.”.

37. Insertion of new sections 28 A and 28 B : After section 28 of the principal Act, the following sections shall be inserted, namely:—

"28A. Power to make regulations :(1) The Commission may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the, foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the time and. places of meetings of the Commission and the procedure to be followed at such meetings under section 3D including quorum necessary for the transaction of business;

(b) the terms and other conditions of service of officers and employees of the Commission under sub-section (2) of section 3H;

(c) the manner in which the fresh issue of equity shares shall be made to the public under sub-section (8) of section 7B;

(d) the conditions of certificate of registration to act as a member or intermediary to deal with forward contract or option in goods or option in commodity derivative under sub-section (1) of section 14A;

(e) the fee for a class or classes of member or intermediary under the second proviso to sub-section (2) of section 14A;

(f) the terms and conditions subject to which registration may be granted under sub-section (4) of section 14A;

(g) the manner in which the certificate of registration may be suspended or cancelled under section 14B;

(h) any other matter relating to trading, clearing, settlement, and delivery of goods, forward contract, option in goods or option in commodity derivative.

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

28B. Application of other laws not barred : The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.".

CHAPTER III

AMENDMENT TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

38. Amendment of section 15U of Act 15 of 1992 : In section 15U of the Securities and Exchange Board of India Act, 1992, in sub-section (2), for the 'words "under this Act", the words "under this Act or any other law for the time being in force" shall be substituted.

ಭಾರತದ ರಾಷ್ಟ್ರಪತಿಯವರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

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ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 13 ಕೇಶಾಪ್ರ 2008, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 10ನೇ ಮಾರ್ಚ್ 2008

2007ನೇ ಸಾಲಿನ ಡಿಸೆಂಬರ್ 20ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Payment and Settlement Systems Act, 2007 (Act No. 51 of 2007) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE PAYMENT AND SETTLEMENT SYSTEMS ACT, 2007

AN

ACT

to provide for the regulation and supervision of payment systems in India and to designate the Reserve Bank of India as the authority for that purpose and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows :-

CHAPTER 1

PRELIMINARY

1. Short title, extent and commencement : (1) This Act may be called the Payment and Settlement Systems Act, 2007

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act, and any reference to the commencement in any such provision of this Act shall be construed as a reference to the commencement of that provision.

2. Definitions : (1) In this Act, unless the context otherwise requires,—

(a) "bank" means,—

(i) a bank included in the Second Schedule to the Reserve Bank of India Act, 1934; (2 of 1934)

(ii) a post office savings bank;

(iii) a banking company as defined in clause (c) of section 5, of the Banking Regulation Act, 1949; (10 of 1949)

(iv) a co-operative bank as defined in clause (cci) of section 5, as inserted by section 56, of the Banking Regulation Act, 1949; (10 of 1949) and

(v) such other bank as the Reserve Bank may, be notification, specify for the purposes of this Act;

(b) "derivative" means an instrument, to be settled at a future date, whose value is derived from change in interest rate, foreign exchange rate, credit rating or credit index, price of securities (also

called "underlying"), or any other underlying or a combination of more than one of them and includes interest rate swaps, forward rate agreements, foreign currency swaps, foreign currency rupee swaps, foreign currency options, foreign currency rupee options or any other instrument, as may be specified by the Reserve Bank from time to time;

(c) "electronic funds transfer" means any transfer of funds which is initiated by a person by way of instruction, authorisation or order to a bank to debit or credit an account maintained with that bank through electronic means and includes point of sale transfers; automated teller machine transactions, direct deposits or withdrawal of funds, transfers initiated by telephone, internet and, card payment;

(d) "gross" settlement system means a payment system in which each settlement of funds or securities occurs on the basis of separate or individual instructions;

(e) "netting" means the determination by the system provider of the amount of money or securities, due or payable or deliverable, as a result of setting off or adjusting, the payment obligations or delivery obligations among the system participants, including the claims and obligations arising out of the termination by the system provider, on the insolvency or dissolution or winding up of any system participant or such other circumstances as the system provider may specify in its rules or regulations or bye-laws (by whatever name called), of the transactions admitted for settlement at a future date so that only a net claim be demanded or a net obligation be owned;

(f) "notification" means a notification published in the Official Gazette;

(g) "payment instruction" means any instrument, authorisation or order in any form, including electronic means, to effect a payment,

(i) by a person to a system participant; or

(ii) by a system participant to another system participant;

(h) "payment obligation" means an indebtedness that is owned by one system participant to another system participant as a result of clearing or settlement of one or more payment instructions relating to funds, securities or foreign exchange or derivatives or other transactions;

(i) "payment system" means a system that enables payment to be effected between a payer and a beneficiary, involving clearing, payment or settlement service or all of them, but does not include a stock exchange;

Explanation.- For the purposes of this clause, "payment system" includes the systems enabling credit card operations, debit card operations, smart card operations, money transfer operations or similar operations;

(j) "prescribed" means prescribed by regulations made under this Act;

(k) "regulation" means a regulation made under this Act;

(l) "Reserve Bank" means the Reserve Bank of India, constituted under the Reserve Bank of India Act, 1934; (2 of 1934)

(m) "securities" means the Government securities as defined in the Public Debt Act, 1944 (18 of 1944) or such, other securities as may be notified by the Central Government from time to time under that Act;

(n) "settlement" means settlement of payment instructions and includes the settlement of securities, foreign exchange or derivatives or other transactions which involve payment obligations;

(o) "systemic risk" means the risk arising from—

(i) the inability of a system participant to meet his payment obligations under the payment system as and when they become due; or

(ii) any disruption in the system,

which may cause other participants to fail to meet their obligations when due and is likely to have an impact on the stability of the system:

Provided that if any doubt or difference arises as to whether a particular risk is likely to have an impact on the stability of the system, the decision of the Reserve Bank shall be final;

(p) "system participant" means a bank or any other person participating in a payment system and includes the system provider;

(q) "system provider" means a person who operates an authorised payment system.

(2) Words and expressions used, but not defined in this Act and defined in the Reserve Bank of India Act, 1934 (2 of 1934) or the Banking Regulation Act, 1949, (10 of 1949) shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

DESIGNATED AUTHORITY AND ITS COMMITTEE

3. Designated authority and its Committee : (1) The Reserve Bank shall be the designated authority for the regulation and supervision of payment systems under this Act.

(2) The Reserve Bank may, for the purposes of exercising the powers and performing the functions and discharging the duties conferred on it by or under this Act, by regulation, constitute a committee of its Central Board to be known as the Board for Regulation 'and Supervision of Payment and Settlement Systems.

(3) The Board constituted under sub-section (2) shall consist of the following members, namely:—

(a) Governor, Reserve Bank, who shall be the Chairperson of the Board;

(b) Deputy Governors, Reserve Bank, out of whom the Deputy Governor who is in-charge of the Payment and Settlement Systems, shall be the Vice-Chairperson of the Board;

(c) Not exceeding three Directors from the Central Board of the Reserve Bank of India to be nominated by the Governor, Reserve Bank.

(4) The powers and functions of the Board constituted under sub-section (2), the time and venue of its meetings, the procedure to be followed in such meetings, (including the quorum at such meetings) and other matters incidental thereto shall be such as may be prescribed.

(5) The Board for Regulation and Supervision of Payment and Settlement Systems constituted under clause (i) of sub-section (2) of section 58 of the Reserve Bank of India Act, 1934 (2 of 1934) shall be deemed to be the Board constituted under this section and continue accordingly until the Board is reconstituted in accordance with the provisions of this Act and shall be governed by the rules and regulations made under the Reserve Bank of India Act, 1934 in so far as they are not inconsistent with the provisions of this Act.

CHAPTER III

AUTHORISATION OF PAYMENT SYSTEMS

4. Payment system not to operate without authorisation : (1) No person, other than the Reserve Bank, shall commence or operate a payment system except under and in accordance with an authorisation issued by the Reserve Bank under the provisions of this Act:

Provided that nothing contained in this section shall apply to—

(a) the continued operation of an existing payment system on commencement of this Act for a period not exceeding six months from such commencement, unless within such period, the operator of such payment system obtains an authorisation under this Act or the application for authorisation made under section 7 of this Act is refused by the Reserve Bank;

(b) any person acting as the duly appointed agent of another person to whom the payment is due;

(c) a company accepting payments either from its holding company or any of its subsidiary companies or from any other company which is also a subsidiary of the same holding company;

(d) any other person whom the Reserve Bank may, after considering the interests of monetary policy or efficient operation of payment systems, the size of any payment system or for any other reason, by notification, exempt from the provisions of this section.

(2) The Reserve Bank may, under sub-section (1) of this section, authorise a company or corporation to operate or regulate the existing clearing houses or new clearing houses of banks in order to have a common retail clearing house system for the banks throughout the country:

Provided, however, that not less than fifty-one per cent. of the equity of such company or corporation shall be held by public sector banks.

Explanation.- For the purposes of this clause, "public sector banks" shall include a "corresponding new bank", "State Bank of India" and "subsidiary bank" as defined in section 5 of the Banking Regulation Act, 1949. (10 of 1949)

5. Application for authorisation : (1) Any person desirous of commencing or carrying on a payment system may apply to the Reserve Bank for an authorisation under this Act.

(2) An application under sub-section (1) shall be made in such form and in such manner and shall be accompanied by such fees as may be prescribed.

6. Inquiry by the Reserve Bank : After the receipt of an application under section 5, and before an authorisation is issued under this Act, the Reserve Bank may make such inquiries as it may consider necessary for the purpose of satisfying itself about the genuineness of the particulars furnished by the applicant, his capacity to operate the payment system, the credentials of the participants or for any other reason and when such an inquiry is conducted by any person authorised by it in this behalf, it may require a report from such person in respect of the inquiry.

7. Issue or refusal of authorisation : (1) The Reserve Bank may, if satisfied, after any inquiry under section 6 or otherwise, that the application is complete in all respects and that it conforms to the provisions of this Act and the regulations issue an authorisation for operating the payment system under this Act having regard to the following considerations, namely:—

(i) the need for the proposed payment system or the services proposed to be undertaken by it;

(ii) the technical standards or the design of the proposed payment system;

(iii) the terms and conditions of operation of the proposed payment system including any security procedure;

(iv) the manner in which transfer of funds may be effected within the payment system;

(v) the procedure for netting of payment instructions effecting the payment obligations under the payment system;

(vi) the financial status, experience of management and integrity if the applicant;

(vii) interests of consumers, including the terms and conditions governing their relationship with payment system providers;

(viii) monetary and credit policies; and

(ix) such other factors as may be considered relevant by the Reserve Bank.

(2) An authorisation issued under sub-section (1) shall be in such form as may be prescribed and shall—

(a) state the date on which it takes effect;

(b) state the conditions subject to which the authorisation shall be in force;

(c) indicate the payment of fees, if any, to be paid for the authorisation to be in force;

(d) if it considers necessary, require the applicant to furnish such security for the proper conduct of the payment system under the provisions of this Act;

(e) continue to be in force till the authorisation is revoked.

(3) Where the Reserve Bank considers that the application for authorisation should be refused, it shall give the applicant a written notice to that effect stating the reasons for the refusal:

Provided that no such application shall be refused unless the applicant is given a reasonable opportunity of being heard.

(4) Every application for authorisation shall be processed by the Reserve Bank as soon as possible and an endeavour shall be made to dispose of such application within six months from the date of filing of such application.

8. Revocation of authorisation : (1) If a system provider,—

(i) contravenes any provisions of this Act, or

(ii) does not comply with the regulations, or

(iii) fails to comply with the orders or directions issued by the designated authority, or

(iv) operates the payment system contrary to the conditions subject to which the authorisation was issued,

the Reserve Bank may, by order, revoke the authorisation given to such system provider under this Act:

Provided that no order of revocation under sub-section (1) shall be made

(i) except after giving the system provider a reasonable opportunity of being heard; and

(ii) without prejudice to the direction of the Reserve Bank to the system provider that the operation of the payment system shall not be carried out till the order of revocation is issued.

(2) Nothing contained in sub-section (1) shall apply to a case where the Reserve Bank considers it necessary to revoke the authorisation given to a payment system in the interest of the monetary policy of the country or for any other reasons to be specified by it in the order.

(3) The order of revocation issued under sub-section (1) shall include necessary provisions to protect and safeguard the interests of persons affected by such order of revocation.

(4) Where a system provider becomes insolvent or dissolved or wound up, such system provider shall inform, that fact to the Reserve Bank and thereupon the Reserve Bank shall take such steps as deemed necessary to revoke the authorisation issued to such system provider to operate the payment system.

9. Appeal to the Central Government : (1) Any applicant for an authorisation whose application for the operation of the payment system is refused under sub-section (3) of section 7 or a system provider who is aggrieved by an order of revocation under section 8 may, within thirty days from the date on which the order is communicated to him, appeal to the Central Government.

(2) The Central Government shall endeavour to dispose of an appeal under sub-section (1) within a period of three months.

(3) The decision of the Central Government on the appeal under sub-section (1) shall be final.

CHAPTER IV

REGULATION AND SUPERVISION BY THE RESERVE BANK

10. Power to determine standards : (1) The Reserve Bank may, from time to time, prescribe—

(a) the format of payment instructions and the size and shape of such instructions;

(b) the timings to be maintained by payment systems;

(c) the manner of transfer of funds within the payment system, either through paper, electronic means or in any other manner, between banks or between banks and other system participants;

(d) such other standards to be complied with the payment systems generally;

(e) the criteria for membership of payment systems including continuation, termination and rejection of membership;

(f) the conditions subject to which the system participants shall participate in such fund transfers and the rights and obligations of the system participants in such funds.

(2) Without prejudice to the provisions of sub-section (1), the Reserve Bank may, from time to time, issue such guidelines, as it may consider necessary for the proper and efficient management of the payment systems generally or with reference to any particular payment system.

11. Notice of change in the payment system : (1) No system provider shall cause any change in the system which would affect the structure or the operation of the payment system without—

(a) the prior approval of the Reserve Bank; and

(b) giving notice of not less than thirty days to the system participants after the approval of the Reserve Bank:

Provided that in the interest of monetary policy of the country or in public interest, the Reserve Bank may permit the system provider to make any changes in a payment system without giving notice to the system participants under clase (b) or requiring the system provider to give notice for a period longer than thirty days.

(2) Where the Reserve Bank has any objection, to the proposed change for any reason, it shall communicate such objection to the systems provider within two weeks of receipt of the intimation of the proposed changes from the system provider.

(3) The system provider shall, within a period of two weeks of the receipt of the objections from the Reserve Bank forward his comments to the Reserve Bank and the proposed changes may be effected only after the receipt of approval from the Reserve Bank.

12. Power to call for returns, documents or other information : The Reserve Bank may call for from any system provider such returns or documents as it may require or other information in regard to the operation of his payment system at such intervals, in such form and in such manner, as the Reserve Bank may require from time to time or as may be prescribed and such order shall be complied with.

13. Access to information : The Reserve Bank shall have right to access any information relating to the operation of any payment system and system provider and all the system participants shall provide access to such information to the Reserve Bank.

14. Power to enter and inspect : Any officer of the Reserve Bank duly authorised by it in writing in this behalf, may for ensuing compliance with the provisions of this Act or any regulations, enter any premises where a payment system is being operated and may inspect any equipment, including any computer system or other documents situated at such premises and call upon any employee of such system provider or participant thereof or any other person working in such premises to furnish such information or documents as may be required by such officer.

15. Information, etc., to be confidential : (1) Subject to the provisions of sub-section (2), any document or information obtained by the Reserve Bank under sections 12 to 14 (both inclusive) shall be kept confidential.

(2) Notwithstanding anything contained in sub-section (1), the Reserve Bank may disclose any document or information obtained by it under sections 12 to 14 (both inclusive) to any person to whom the disclosure of such document or information is considered necessary for protecting the integrity, effectiveness or security of the payment system, or in the interest of banking or monetary policy or the operation of the payment systems generally or in the public interest.

16. Power to carry out audit and inspection : The Reserve Bank may, for the purpose of carrying out its functions under this Act, conduct or get conducted audits and inspections of a payment system or participants thereof and it shall be the duty of the system provider and the system participants to assist the Reserve Bank to carry out such audit or inspection, as the case may be.

17. Power to issue directions : Where the Reserve Bank is of the opinion that,—

(a) a payment system or a system participant is engaging in, or is about to engage in, any act, omission or course of conduct that results, or is likely to result, in systemic risk being inadequately controlled or

(b) any action under clause (a) is likely to affect the payment system, the monetary policy or the credit policy of the country,

the Reserve Bank may issue directions in writing to such payment system or system participant requiring it, within such time as the Reserve Bank may specify –

(i) to cease and desist from engaging in the act, omission or course of conduct or to ensure the system participants to cease and desist from the act, omission or course of conduct; or

(ii) to perform such acts as may be necessary, in the opinion of the Reserve Bank, to remedy the situation.

18. Power of Reserve Bank to give directions generally : Without prejudice to the provisions of the foregoing, the Reserve Bank may, if it is satisfied that for the purpose of enabling it to regulate the payment systems or in the interest of management or operation of any of the payment systems or in public interest, it is necessary so to do, lay down policies relating to the regulation of payment systems including electronic, non-electronic, domestic and international payment systems affecting domestic transactions and give such directions in writing as it may consider necessary to system providers or the system participants or any other person either generally or to any such agency and in particular, pertaining to the conduct of business relating to payment systems.

19. Directions of Reserve Bank to be complied with : Every person to whom a direction has been issued by the Reserve Bank under this Act shall comply with such direction without any delay and a report of compliance shall be furnished to the Reserve Bank within the time allowed by it.

CHAPTER V

RIGHTS AND DUTIES OF A SYSTEM PROVIDER

20. System provider to act in accordance with the Act, regulations, etc : Every system provider shall operate the payment system in accordance with the provisions of this Act, the regulations, the contract governing the relationship among the system participants, the rules and regulations which deal with the operation of the payment system and the conditions subject to which the authorisation is issued, and the directions given by the Reserve Bank from time to time.

21. Duties of a system provider : (1) Every system provider shall disclose to the existing or potential system participants, the terms and conditions including the charges and the limitations of liability under the payment system, supply them with copies of the rules and regulations governing the operation of the payment system, netting arrangements and other relevant documents.

(2) It shall be the duty of every system provider to maintain the standards determined under this Act

22. Duty to keep documents in the payment system confidential : (1)A system provider shall not disclose to any other person the existence or contents of any document or part thereof or other information given to him by a system participant, except where such disclosure is required under the provisions of this Act or the disclosure is made with the express or implied consent of the system participant concerned or where such disclosure is in obedience to the orders passed by a court of competent jurisdiction or a statutory authority in exercise of the powers conferred by a statute.

(2) The provisions of the Bankers' Book Evidence Act, 1891 (18 of 1991) shall apply in relation to the information or documents, or other books in whatever form maintained by the system provider.

23. Settlement and netting : (1) The payment obligations and settlement instructions among the system participants shall be determined in accordance with the gross or netting procedure, as the case may be, approved by the Reserve Bank while issuing authorisation to a payment system.

(2) Where the rules providing for the operation of a payment system indicates a procedure for the distribution of losses between the system participants and the payment system, such procedure shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

(3) A settlement effected under such procedure shall be final and irrevocable.

(4) Where a system participant is declared by a court of competent jurisdiction as insolvent or is dissolved or wound up, then notwithstanding anything contained in the Companies Act, 1956 (1 of 1956)

or the Banking Regulation Act, 1949 (10 of 1949) or any other law for the time being in force, the order of adjudication or dissolution or winding up, as the case may be, shall not affect any settlement that has become final and irrevocable and the right of the system provider to appropriate any collaterals contributed by the system participant towards its settlement or other obligations in accordance with the rules, regulations or bye-laws of such system provider.

Explanation.- For the removal of doubts, it is hereby declared that the settlement, whether gross or net, referred to in this section is final and irrevocable as soon as the money, securities, foreign exchange or derivatives or other transactions payable as a result of such settlement is determined, whether or not such money, securities or foreign exchange or derivatives or other transactions is actually paid.

CHAPTER VI
SETTLEMENT OF DISPUTES

24. Settlement of disputes : (1) The system provider shall make provision in its rules or regulations for creation of panel consisting of not less than three system participants other than the system participants who are parties to the dispute to decide the disputes between system participants in respect of any matter connected with the operation of the payment system.

(2) Where any dispute in respect of any matter connected with the operation of the payment system arises between two- or more system participants, the system provider shall refer the dispute to the panel referred to in sub-section (1).

(3) Where any dispute arises between any system participant and the system provider or between system providers or where any of the system participants is not satisfied with the decision of the panel referred to in sub-section (1), the dispute shall be referred to the Reserve Bank.

(4) The dispute referred to the Reserve Bank for adjudication under sub-section (3) shall be disposed of by an officer of the Reserve Bank generally or specially authorised in this behalf and the decision of the Reserve Bank shall be final and binding.

(5) Where a dispute arises between the Reserve Bank, while acting in its capacity as system provider or as system participant, and another system provider or system participant, the matter shall be referred to the Central Government which may authorise an officer not below the rank of Joint Secretary for settlement of the dispute and the decision of such officer shall be final.

25. Dishonour of electronic funds transfer for insufficiency, etc., of funds in the account : (1) Where an electronic funds transfer initiated by a person from an account maintained by him cannot be executed on the ground that the amount of money standing to the credit of that account is insufficient to honour the transfer instruction or that it exceeds the amount arranged to be paid from that account by an agreement made with a bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provisions of this Act, be punished with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of the electronic funds transfer, or with both:

Provided that nothing contained in this section shall apply unless—

(a) the electronic funds transfer was initiated for payment of any amount of money to another person for the discharge, in whole or in part, of any debt or other liability;

(b) the electronic funds transfer was initiated in accordance with the relevant procedural guidelines issued by the system provider;

(c) the beneficiary makes a demand for the payment of the said amount of money by giving a notice in writing to the person initiating the electronic funds transfer within thirty days of the receipt of information by him from the bank concerned regarding the dishonour of the electronic funds transfer; and

(d) the person initiating the electronic funds transfer fails to make the payment of the said money to the beneficiary within fifteen days of the receipt of the said notice.

(2) It shall be presumed, unless the contrary is proved, that the electronic funds transfer was initiated for the discharge, in whole or in part, of any debt or other liability.

(3) It shall not be a defence in a prosecution for an offence under sub-section (1) that the person, who initiated the electronic funds transfer through an instruction, authorisation, order or agreement, did not have reason to believe at the time of such instruction, authorisation, order or agreement that the credit of his account is insufficient to effect the electronic funds transfer.

(4) The Court shall, in respect of every proceeding under this section, on production of a communication from the bank denoting the dishonour of electronic funds transfer, presume the fact of dishonour of such electronic funds transfer, unless and until such fact is disproved.

(5) The provisions of Chapter XVII of the Negotiable Instruments Act, 1881 (26 of 1881) shall apply to the dishonour of electronic funds transfer to the extent the circumstances admit.

Explanation.— For the purposes of this section, "debt or other liability" means a legally enforceable debt or other liability, as the case may be.

CHAPTER VII
OFFENCES AND PENALTIES

26. Penalties : (1) Where a person contravenes the provisions of section 4 or fails to comply with the terms and conditions subject to which the authorisation has been issued under section 7, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years or with fine which may extend to one crore rupees or with both and with a further fine which may extend to one lakh rupees for every day, after the first during which the contravention or failure to comply continues.

(2) Whoever in any application for authorisation or in any return or other document or on any information required to be furnished by or under, or for the purpose of, any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which shall not be less than ten lakh rupees and which may extend to fifty lakh rupees.

(3) If any person fails to produce any statement, information, returns or other documents, or to furnish any statement, information, returns or other documents, which under section 12 or under section 13, it is his duty to furnish or to answer any question relating to the operation of a payment system which is required by an officer making inspection under section 14, he shall be punishable with fine which may extend to ten lakh rupees in respect of each offence and if he persists in such refusal, to a further fine which may extend to twenty-five thousand rupees for every day for which the offence continues.

(4) If any person discloses any information, the disclosure of which is prohibited under section 22, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five lakh rupees or an amount equal to twice the amount of the damages incurred by the act of such disclosure, whichever is higher or with both.

(5) Where a direction issued under this Act is not complied with within the period stipulated by the Reserve Bank or where no such period is stipulated, within a reasonable time or where the penalty imposed by the Reserve Bank under section 30 is not paid within a period of thirty days from the date of the order, the system provider or the system participant which has failed to comply with the direction or to pay the penalty shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine which may extend to one crore rupees or with both and where the failure to comply with the direction continues, with further fine which may extend to one lakh rupees for every day, after the first during which the contravention continues.

(6) If any provision of this Act is contravened, or if any default is made in complying with any other requirement of this Act, or of any regulation, order or direction made or given or condition imposed

thereunder and in respect of which no penalty has been specified, then, the person guilty of such contravention or default, as the case may be, shall be punishable with fine which may extend to ten lakh rupees and where a contravention or default is a continuing one, with a further fine which may extend to twenty-five thousand rupees for every day, after the first during which the contravention or default continues.

27. Offences by companies : (1) Where a person committing a contravention of any of the provisions of this Act or any regulation, direction or order made there under is a company, every person who, at the time of the contravention, was in-charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any regulation, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

28. Cognizance of offences : (1) No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by an officer of the Reserve Bank generally or specially authorised by it in writing in this behalf, and no court, lower than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any such offence:

Provided that the Court may take cognizance of an offence punishable under section 25 upon a complaint in writing made by the person aggrieved by the dishonour of the electronic funds transfer.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) a Magistrate may dispense with the personal attendance of the officer of the Reserve Bank filing the compliant, but the Magistrate may, in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant.

29. Application of fine : A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in, or towards payment of, the costs of the proceedings.

30. Power of Reserve Bank to impose fines : (1) Notwithstanding anything contained in section 26, if a contravention or default of the nature referred to in sub-section (2) or sub-section (6) of section 26, as the case may be, the Reserve Bank may impose on the person contravening or committing default a penalty not exceeding five lakh rupees or twice the amount involved in such contravention or default where such amount is quantifiable, whichever is more, and where such contravention of default is a continuing one, a further penalty which may extend to twenty-five thousand rupees for every day after the first during which the contravention or default continues.

(2) For the purpose of imposing penalty under sub-section (1), the Reserve Bank shall serve a notice on the defaulter requiring him to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall also be given to such defaulter.

(3) Any penalty imposed by the Reserve Bank under this section shall be payable within a period of thirty days from the date on which notice issued by the Reserve Bank demanding payment of the sum is

served on the defaulter and, in the event of failure of the person to pay the sum within such period, may be recovered on a direction made by the principal civil court having jurisdiction in the area where the registered office of the defaulter company or the official business of the person is situated:

Provided that no such direction shall be made except on an application made by an officer of the Reserve Bank authorised by it in this behalf.

(4) The Reserve Bank may recover the amount of penalty by debiting the current account, if any, of the defaulter or by liquidating the securities held to the credit of the defaulter or in accordance with the provisions of this Act.

(5) The court which makes a direction under sub-section (3) shall issue a certificate specifying the sum payable by the defaulter and every such certificate shall be enforceable in the same manner as it were a decree made by the court in a civil suit.

(6) Where any complaint has been filed against any person in any court in respect of the contravention or default of the nature referred to in sub-section (2), or, as the case may be, sub-section (4) of section 26, then, no proceeding for the imposition of any penalty on the person shall be taken under this section.

31. Power to compound offences : (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) any offence punishable under this Act for any contravention, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on receipt of an application from the person committing such contravention either before or after the institution of any proceeding, be compounded by an officer of the Reserve Bank duly authorised by it in this behalf.

(2) Where a contravention has been compounded under sub-section (1) no proceeding or further proceeding, as the case may be, shall be initiated or continued, as the case may be, against the person committing such contravention under that section, in respect of the contravention so compounded.

CHAPTER VIII
MISCELLANEOUS

32. Act to have overriding effect : The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

33. Mode of recovery of penalty : (1) The penalty imposed on the defaulter by the Reserve Bank under section 30 may be recovered by issuing a notice to any person from whom any amount is due to the defaulter, by requiring such person to deduct from the amount payable by him to the defaulter, the amount payable to the Reserve Bank by way of penalty and pay to the Reserve Bank.

(2) Save as otherwise provided in this section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where such notice is issued to a post office, bank or an insurer, it shall not be necessary for any passbook, ‘deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made notwithstanding that any rule, practice or requirement to the contrary.

(3) Any claim respecting any property in relation to which a notice under this subsection has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(4) Where a person to whom the notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the defaulter or that he does not hold any money for or on account of the defaulter, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Reserve Bank to the extent of his own liability to the defaulter on the date of the notice, or to the extent of the penalty imposed on the defaulter by the Reserve Bank, whichever is less.

(5) The Reserve Bank may at any time or from time to time, amend or revoke any notice issued under this section or extend the time for making the payment in pursuance of such notice;

(6) The Reserve Bank shall grant a receipt for any amount paid to it in compliance with a notice, issued under this section and the person so paying shall be fully discharged from his liability to the defaulter to the extent of the amount so paid.

(7) Any person discharging any liability to the defaulter after the receipt of a notice under this section shall be personally liable to the Reserve Bank to the extent of his own liability to the defaulter so discharged or to the extent of the penalty imposed on the defaulter by the Reserve Bank, whichever is less.

(8) If the person to whom the notice under this section is sent fails to make payment in pursuance thereof to the Reserve Bank, he shall be deemed to be the defaulter in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear due from him in the manner provided in this section.

Explanation.- For the purposes of this section, "defaulter" means any person or system provider or system participant on whom the Reserve Bank has imposed a penalty under section 30.

34. Act not to apply to stock ex-changes or clearing corporations of stock ex-change: Nothing contained in this Act shall apply to stock exchanges or the clearing corporations of the stock exchanges.

35. Certain persons deemed to be public servants : (1) Every officer of the Reserve Bank who has been entrusted with any power under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. (45 of 1860)

36. Protection of action taken in good faith : No suit or other legal proceedings shall lie against the Central Government, the Reserve Bank, or any officer thereof for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act, any regulations, order or direction made or given thereunder.

37. Power to remove difficulties : (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provision is not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

38. Power of Reserve Bank to make regulations : (1) The Reserve Bank may, by notification, make regulations consistent with this Act to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provision, such regulations may provide for all or any of the following matters, namely:—

(a) the powers and Functions of the Committee constituted under sub-section (2), the time and venue of its meetings and the procedure to be followed by it at its meetings (including the quorum at such meetings) under sub-section (4) of section 3;

(b) the form and manner in which an application for authorisation for commencing or carrying on a payment system shall be made and the fees which shall accompany such application under sub-section (2) of section 5;

(c) the form in which an authorisation to operate a payment system under this Act shall be issued under sub-section (2) of section 7;

(d) the format of payment instructions and other matters relating to determination of standards to be complied with by the payment systems under sub-section (1) of section 10;

(e) the intervals, at which and the form and manner in which the information or returns required by the Reserve Bank shall be furnished under section 12;

(f) such other matters as are required to be, or may be, prescribed.

(2) Any regulation made under this section shall have effect from such earlier or later date (nor earlier than the date of commencement of this Act) as may be specified in the regulation.

(3) Every regulation shall, as soon as may be after it is made by the Reserve Bank, be forwarded to the Central Government and that Central Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

ಭಾರತದ ರಾಷ್ಟ್ರಪತಿಯವರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್. ಆಂಜಿನಿ
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಪಿ.ಆರ್. 22

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 14 ಕೇಶಾಪ್ರ 2008, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 10ನೇ ಮಾರ್ಚ್ 2008

2007ನೇ ಸಾಲಿನ ಡಿಸೆಂಬರ್ 20ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Indira Gandhi National Tribunal University Act, 2007 (Act No. 52 of 2007) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE INDIRA GANDHI NATIONAL TRIBAL UNIVERSITY ACT 2007

AN

ACT

to establish and incorporate a teaching and affiliating University at Amarkantak in the State of Madhya Pradesh to facilitate and promote avenues of higher education and research facilities for the tribal population in India and to provide for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty – eighth Year of the Republic of India as follows :-

1. Short title and commencement : (1) This Act may be called the Indira Gandhi National Tribal University Act, 2007

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions : (1) In this Act, and in all Statutes made hereunder, unless the context otherwise requires,

(a) “Academic Board” in relation to a regional centre or a recognised institution means the academic body charged with the academic matters of such centre or institution, as the case may be, and recognised as such by the University;

(b) “Academic Council” means the Academic Council of the University;

(c) “academic staff’ means such categories of staff as are designated as academic staff by the Ordinances;

(d) “Affiliated College” means a college admitted to the privileges of the University;

(e) “Board of Studies” means the Board of Studies of the University;

(f) “Campus” means the unit established or constituted for making arrangements for instruction, or research, or both, and includes off-campuses;

(g) “Chancellor”, “Vice-Chancellor” and “Pro-Vice-Chancellor” mean, respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;

(h) “College Development Council” means the College Development Council of the University;

(i) “Court” means the Court of the University;

(j) “Dean” means Head of a Faculty of the University;

(k) “Department” means a Department of Studies and includes a Centre of Studies;

(l) “distance education system” means the system of imparting education through any means of communication, such as broadcasting, telecasting, webcasting correspondence courses, seminars, contact programmes or the combination of any two or more such means;

(m) “Director” means Head of a Regional Centre;

(n) “employee” means any person appointed by the University and includes teachers and other staff of the University;

(o) “Executive Council” means the Executive Council of the University;

(p) “Faculty” means a Faculty of the University;

(q) “Finance Committee” means the Finance Committee of the University;

(r) “Hall” means a unit of residence or of corporate life for the students of the University, or of a College or of an Institution, maintained or recognised by the University;

(s) “Institution” means an academic institution, not being a College, maintained by, or admitted to. the privileges of, the University;

(t) “Management Board” in relation to a regional centre or a recognised institution means the governing body charged with the management of the affairs of such centre or institution, as the case may be, and recognised as such by the University;

(u) “Principal” means the Head of a College or an Institution maintained by the University and includes, where there is no Principal, the person for the time being duly appointed to act as Principal, and in the absence of the Principal, or the acting Principal, a Vice-Principal duly appointed as such;

(v) “recognised teachers” means such persons as may be recognised by the University for the purpose of imparting instructions in a College or an Institution admitted to the privileges of the University;

(w) “Regional Centres” means off-campuses constituted by the University and functioning as part of the University, established in more tribal dominated areas, as prescribed in the Statutes;

(x) “Regulations” means the Regulations made by any authority, of the University under this Act for the time being in force;

(y) “Scheduled Population” means and includes the Scheduled Tribes as well as Scheduled Castes, as defined in the Constitution of India;

(z) “Statutes” and “Ordinances” mean, respectively, the Statutes and the Ordinances of the University, for the time being in force;

(za) “teachers of the University’ means Professors, Readers, Lecturers and such other persons as may be appointed for imparting instructions or conducting research in the University or any College or Institution maintained by the University and are designated, as teachers by the Ordinances;

(zb) “University” means the Indira Gandhi National Tribal University as incorporated under this Act.

3. Establishment of University : (1) There shall be established, in the State of Madhya Pradesh, a University by the name of "Indira Gandhi National Tribal University”.

(2) The headquarters of the University shall be at Amarkantak.

(3) The University shall have such number of Regional Centres and Campuses in the tribal areas as the University may deem fit.

(4) The first Chancellor, the first Vice-Chancellor and the first members of the Court, the Executive Council and the Academic Council, and all such persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of "Indira Gandhi National Tribal University".

(5) The University shall have perpetual succession and a common seal, and shall sue and be sued by the said name.

4. Objects of University : The objects of the University shall be,—

(i) to provide avenues of higher education and research facilities primarily for the tribal population of India;

(ii) to disseminate and advance knowledge by providing instructional and research facilities in tribal art, culture, tradition, Language, medicinal systems, customs, forest based economic activities, flora, fauna and advancement in technologies relating to the natural resources of the tribal areas;

(iii) to collaborate with national and international universities or organisations, specially for undertaking cultural studies and research on tribal populations;

(iv) to formulate tribal centric development models, publish reports and monographs; and to organise conferences; seminars on issues relating to tribes; and to provide inputs to policy matters in different spheres;

(v) to take appropriate measures for promoting, the members of tribal communities capable of managing, administering and looking after their own needs by access to higher education through a University of their own;

(vi) to disseminate and advance knowledge by providing instructional and research facilities in such other branches of learning as it may deem fit;

(vii) to take appropriate measures for promoting innovations in teaching learning processes in inter-disciplinary studies and research;, and to pay special attention to the improvement of the social, educational and economic conditions and welfare of the Scheduled Tribes within the Union of India, their intellectual, academic and cultural development.

5. Powers of University : The University shall have the following powers, namely:—

(I) to provide for instruction in such branches of learning as the University may, from time to time, determine and to make provisions for research and for the advancement and dissemination of knowledge;

(ii) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on the basis of examinations, evaluation or any other method of testing on, persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(iii) to organise and to undertake extra-mural studies, training and extension services;

(iv) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(v) to provide facilities through the distance education system to such persons as it may determine;

(vi) to institute Directorships, Principalships, Associateships, Professorships, Readerships, Lecturerships and other teaching or academic positions, required by the University and to appoint persons to such Directorships, Principalships, Associateships, Professorships, Readerships, Lecturerships and other teaching or academic positions;

(vii) to recognise an institution of higher learning for such purposes as the University may determine and to withdraw such recognition;

(viii) to recognise persons for imparting instructions in any College or Institution recognised or maintained by the University;

(ix) to appoint persons working in any other University or educational institution as teachers of the University for a specified period;

(x) to create administrative, ministerial and other posts and to make appointments thereto;

(xi) to co-operate or collaborate or associate with any other University or authority or Institution of higher learning in such manner and for such purposes as the University may determine;

(xii) to establish, with the prior approval of the Central Government, such Campuses, special centres, specialised laboratories or other units for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objects;

(xiii) to institute and award fellowships, scholarships, studentships, medals and prizes;

(xiv) to establish and maintain Colleges, Institutions and Halls;

(xv) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions, industrial or other organisations, as the University may deem necessary;

(xvi) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other academic staff;

(xvii) to make special arrangements in respect of the residence and teaching of women students as the University may deem necessary;

(xviii) to appoint on contract or otherwise visiting professors, Emeritus Professors, Consultants, Scholars and such other persons who may contribute to the advancement of the objects of the University;

(xix) to confer autonomous status on a College or an Institution or a Department, as the case may be, in accordance with the Statutes;

(xx) to admit to its privileges Colleges and Institutions located in India not maintained by the University; to withdraw all or any of those privileges in accordance with such conditions as may be prescribed by the Statutes; to recognise, guide, supervise, and control Halls not maintained by the University and other accommodation for students, and to withdraw any such recognition;

(xxi) to determine standards of admission to the University which may include examination, evaluation or any other method of testing;

(xxii) to demand and receive payment of fees and other charges;

(xxiii) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(xxiv) to lay down conditions of service of all categories of employees, including their code of conduct;

(xxv) to regulate and enforce discipline among the students and the employees and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(xxvi) to make arrangements for promoting the health and general welfare of the employees;

(xxvii) to receive benefactions, donations and gifts and to acquire, hold, manage and dispose of with the previous approval of the Central Government, any property, movable or immovable, including trust and endowment properties for the purposes of the University;

(xxviii) to borrow, with the prior approval of the Central Government, on the security of the property of the University, money for the purposes of the University;

(xxix) to establish such number of Regional Centres in various tribal areas of the country as are, in the opinion of the University, necessary for the furtherance of its objects;

(xxx) to make special provisions for the promotion of educational, economic interests and welfare of the members belonging to the Scheduled Tribes by providing adequate percentage of seats in the matters of admission, of posts in the matter of employment and other benefits.

(xxxi) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

6. Jurisdiction : The jurisdiction of the University shall extend to the whole of India.

7. University open to all classes, castes and creed : The University shall be open to persons of either sex and of whatever race, creed, caste or class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof:

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or admission of women, persons with disabilities or of persons belonging to the weaker sections of the society and, in particular of the Scheduled Castes and the Scheduled Tribes.

8. Residence of students : Every student of the University other than a student who pursues a course of study by distance education system, shall reside in a Hall or hostel or under such condition as may be prescribed by the Ordinances.

9. Power to establish and maintain schools : The University shall, subject to Statutes, have power to establish at least one school in every Regional Centre, as a model school for the schools of the region.

10. The Visitor :(1)The President of India shall be the Visitor of the University.

(2) The Visitor may, from time to time, appoint one or more persons to review the work and progress of the University, including Colleges and Institutions maintained by it, and to submit a report thereon; and upon receipt of that report, the Visitor may, after obtaining the views of the Executive Council thereon through the Vice-Chancellor, take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the University shall be bound to comply with such directions.

(3) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, libraries, laboratories and equipment, and of any College or Institution maintained by the University or admitted to its privileges; and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University, Colleges or Institutions.

(4) The Visitor shall, in every matter referred to in sub-section (3), give notice of his intention to cause an inspection or inquiry to be made,—

(a) to the University, if such inspection or inquiry is to be made in respect of the University or any College or institution maintained by it, or

(b) to the management of the College or Institution, if the inspection or inquiry is to be made in respect of College or Institution admitted to the privileges of the University, and the University or the management, as the case may be, shall have the right to make such representations to the Visitor, as it may consider necessary.

(5) After considering the representations, if any, made by the University or the management, as the case may be, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (3).

(6) Where any inspection or inquiry has been caused to be made by the Visitor, the University or the management shall be entitled to appoint a representative, who shall have the right to be present and be heard at such inspection or inquiry.

(7) The Visitor may, if the inspection or inquiry is made in respect of the University or any College or Institution maintained by it, address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon, as the Visitor may be pleased to offer, and on receipt of address made by the Visitor, the Vice-Chancellor shall communicate, to the Executive Council, the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(8) The Visitor may, if the inspection or inquiry is made in respect of any College or institution admitted to the privileges of the University, address the management concerned through the Vice-Chancellor with reference to the result of such inspection or inquiry, his views thereon and such advice as he may be pleased to offer upon the action to be taken thereon.

(9) The Executive Council or the management, as the case may be, shall communicate, through the Vice-Chancellor to the Visitor such action, if any, as it proposes to take or has been taken upon the result of such inspection or inquiry.

(10) Where, the Executive Council or the management, does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council or the management, issue such directions as he may think fit and the Executive Council or the management, as the case may be, shall comply with such directions.

(11) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with the Act, the Statutes or the Ordinances:

Provided that before making any such order, he shall call upon the Registrar to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.

(12) The Visitor shall have such other powers as may be prescribed by the Statutes.

11. Officers of University : The following shall be the officers of the University:—

(1) the Chancellor;
(2) the Vice-Chancellor;
(3) the Pro-Vice-chancellor
(4) the Director;
(5) the Deans of Faculties;
(6) the Registrar;
(7) the Finance Officer;
(8) the Controller of Examinations;
(9) the Librarian; and
(10) such, other officers as may be declared by the Statutes to be officers of the University.

12. The Chancellor : (1) The Chancellor shall be appointed by the' Visitor in such manner as may be prescribed by the Statutes.

(2) The Chancellor shall, by virtue of his office, be the head of the University and shall, if present, preside at the Convocations of the University held for conferring degrees and meetings of the Court.

13. The Vice-Chancellor : (1) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority at its next meeting the action taken by him on such matter:

Provided that if the authority concerned is of the opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final:

Provided further that any person' in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to represent against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) The Vice-Chancellor, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes or the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter' shall be referred to the Visitor whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

14. The Pro-Vice-Chancellor : The Pro-Vice-Chancellor shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

15. The Deans of Faculties : Every Dean of Faculty shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

16. The Directors of Regional Centres : Every Director of Regional Centre shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

17. The Registrar : (1) The Registrar shall be appointed in such manner and on such terms and conditions of service, as may be prescribed by the Statutes.

(2) The Registrar shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

18. The Finance Officer : The Finance Officer shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

19. The Controller of Examination : The Controller of Examinations shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

20. The Librarian : The Librarian shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

21. Other officers : The manner of appointment and powers and duties of other officers of the University shall be prescribed by the Statutes.

22. Authorities of University : The following shall be the authorities of the University:

(1) the Court;

(2) the Executive Council;

(3) the Academic Council;

(4) the College Development Council;

(5) the Board of Studies;

(6) the Finance Committee; and

(7) such other authorities as may be declared by the Statutes to be the authorities of the University.

23. The Court : (1) The constitution of the Court and the term of office of its members shall be prescribed by the Statutes:

Provided that the Court shall have adequate number of members from amongst the Scheduled Tribes:

Provided further that such number of members as may be prescribed by the Statutes shall be elected from among the teachers, employees and students of the University.

(2) Subject to the provisions of this Act, the Court shall have the following powers and functions, namely:—

(a) to review, from time to time, the broad policies and programmes of the University and to suggest measures for the improvement and development of the University;

(b) to consider and pass resolutions on the annual report and the annual accounts of the University and the audit report on such accounts;

(c) to advise the Visitor in respect of any matter which may be referred to it for advice; and

(d) to perform such other functions as may be prescribed by the Statutes.

24. The Executive Council : (1) The Executive Council shall be the principal executive body of the University.

(2) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:

Provided that the Executive Council shall have adequate number of members from amongst the Scheduled Tribes:

Provided further that such number of members as may be prescribed by the Statutes shall be from amongst the elected members of the Court.

25. The Academic Council : (1) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, co ordinate and exercise general supervision over the academic policies of the University.

(2) The constitution of the Academic Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:

Provided that the Academic Council shall have adequate number of members from amongst the Scheduled Tribes:

Provided further that such number of members as may be prescribed by the Statutes shall be from amongst the elected members of the Court who are teachers of the University.

26. The College Development Council : (1) The College Development Council shall be responsible for admitting Colleges to the privileges of the University.

(2) The constitution of the College Development Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:

Provided that the College Development Council shall have adequate number of members from amongst the Scheduled 'Tribes.

27. The Boards of Studies Academic Boards and Management Boards : The constitution, powers and functions of the Boards of Studies, the Academic Boards and the Management Boards shall be prescribed by the Statutes:

Provided that the Boards of Studies, the Academic Boards and the Management Boards shall have adequate number of members from amongst the Scheduled Tribes.

28. The Finance Committee : The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes:

Provided that the Finance Committee shall have adequate number of members from amongst the Scheduled Tribes.

29. Other authorities of University : The constitution, powers and functions of other authorities, as may be declared by the Statutes to, be the authorities of the University, shall be prescribed by the Statutes:

Provided that the other authorities of the University shall have adequate number of members from amongst the Scheduled Tribes.

30. Power to make Statutes : Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) the constitution, powers and functions of authorities and other bodies of the University, as may be constituted from time to time;

(b) the appointment and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members, and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(c) the appointment, powers and duties of the officers of the University and their emoluments;

(d) the appointment of teachers, academic staff and other employees of the University, their emoluments and conditions of service;

(e) the recognition of persons as recognised teachers;

(f) the appointment of teachers, academic staff working in any other University or organisation for a specific period for undertaking a joint project;

(g) the conditions of service of employees including provisions for pension, insurance, provident fund, the manner of termination of service and disciplinary action;

(h) the principles governing the seniority of service of the employees of the University;

(i) the procedure for arbitration in cases of dispute between employees or students and the University;

(j) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;

(k) the conferment of autonomous status on a College or an Institution or a Department;

(l) the establishment and abolition of Faculties, Departments, Centres, Halls, Colleges and Institutions;

(m) the conferment of honorary degrees;

(n) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(o) the conditions under which Colleges and Institutions may be admitted to the privileges of the University and the withdrawal of such privileges;

(p) the management of Colleges and Institutions established by the University;

(q) the delegation of powers vested in the authorities or officers of the University;

(r) the maintenance of discipline among the employees and students; and

(s) all other matters which by this Act are to be or may be provided for by the Statutes.

31. Statutes, how to be made :(1) The first Statutes are those set out in the Schedule.

(2) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (1):

Provided that the Executive Council shall not make, amend or repeal any Statutes affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Executive Council.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the assent of the Visitor who may assent thereto or withhold assent or remit to the Executive Council for re-consideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

(5) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may make new or additional Statutes or amend or repeal the Statutes referred to in subsection (1), during the period of three years immediately after the commencement of this act

Provided that the Visitor may, on the 'expiry of the said period of three years, make, within one year from the date of such expiry, such detailed Statutes as he may consider necessary and such detailed Statutes shall be laid before both Houses of Parliament.

(6) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may direct the University to make provisions in the Statutes in respect of any matter specified by him and if the Executive Council is unable to implement such direction within sixty days of its receipt, the Visitor may, after considering the reasons, if any, communicated by the Executive Council for its inability to comply with such direction, make or amend the Statutes suitably.

32. Power to make Ordinances : (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(a) the admission of students to the University and their enrolment as such;

(b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;

(c) the medium of instruction and examination;

(d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;

(f) the institution of fellowships, scholarships, studentships, medals and prizes;

(g) the conditions for award of fellowships, scholarships, studentships, medals and prizes;

(h) the conduct of examinations, including the term of office and the manner of appointment and the duties of examining bodies, examiners and moderators;

(i) the conditions of residence of the students of the University;

(j) the special arrangements, if any, which may be made for the residence and teaching of women students and the prescribing of special courses of studies for them

(k) the appointments and emoluments of employees other than those for whom provision has been made in the Statutes.

(l) the setting up of a machinery for redressal of grievances of employees;

(m) the establishment and management of Regional Centres, Schools, Colleges, other Institutions, Centres of Studies, Boards of Studies, Special Centres, Specialised Laboratories and other Committees;

(n) the manner of co-operation and collaboration with other Universities, institutions and other non-profiteering agencies including learned bodies or associations;

(o) the creation, composition and functions of any other ‘body which is considered necessary for improving the academic life of the University;

(p) the institution of fellowships, scholarships, studentships, medals and prizes;

(q) the supervision of management of Colleges and Institutions admitted to the privileges of the University; and

(r) all other matters which by this Act or the Statutes, are to be or may be, provided for by the Ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor with the previous approval of the Central Government and the Ordinances so made may be amended, repealed or added to at any time by the Executive Council in the manner prescribed by the Statutes.

33. Regulations : The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

34. Annual report : (1) The annual report of the University Shall be prepared under the direction of the Executive Council, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and shall be submitted to the Court on or after such date as may be prescribed by the Statutes and the Court shall consider the report in its annual meeting.

(2) The Court shall submit the annual report to the Visitor along with its comments, if any.

(3) A copy of the annual report, as prepared under sub-section (1), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses ‘of Parliament.

35. Annual accounts : (1) The annual accounts and balance-sheet of the University shall be prepared under the directions of the Executive Council and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the Court and the Visitor along with the observations of the Executive Council.

(3) Any observations made by the Visitor on the annual accounts shall be brought to the notice of the Court and the observations of the Court, if any, shall, after being considered by the Executive Council, be submitted to the Visitor.

(4) A copy of the annual accounts together with the audit report as submitted to the Visitor, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

(5) The audited annual accounts after having been laid before both Houses of Parliament shall be published in the Official Gazette.

36. Fund of University : (1) There shall be a University Fund which shall include

(a) any contribution or grant made by the State Government;

(b) any contribution or grant made by the University Grants Commission or the Central Government;

(c) any contribution made by Government, semi-Government or autonomous bodies;

(d) any bequests, donations, endowments or other grants made by any private individual or institution;

(e) income received by the University from fees and charges; and

(f) amounts received from any other source.

(2) The amount of the said Fund shall be kept in a Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (2 of 1934), or in a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980) or may be invested in such securities authorised by the Indian Trusts Act, 1882, (2 of 1882) as may be decided by the Executive Council.

(3) The said Fund may be utilised for such purposes of the University and in such manner as may be prescribed.

37. Returns and information : The, University shall furnish to the Central Government such returns or other information with respect to its property or activities as the Central Government may, from time to time, require.

38. Conditions of service of employees : (1) Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee concerned and an umpire appointed by the Visitor.

(3) The decision of the Tribunal shall be final, and no suit shall lie in any civil court in respect of the matters decided by the Tribunal:

Provided that nothing in this sub-section shall preclude the employee from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

(4) Every request made by the employee under sub-section (2), shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration and Conciliation Act, 1996. (26 of 1996)

(5) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

39. Procedure of appeal and arbitration in disciplinary cases against students : (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, appeal to the Executive Council and the Executive Council may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 38 shall, as far as may be, apply to a reference made under this sub-section.

40. Right to appeal : Every employee or student of the University or of a College or institution maintained by the University or admitted to its privileges shall, notwithstanding anything contained in this Act, have a right to appeal within such time as may be prescribed by the Statutes, to the Executive Council against the decision of any officer or authority of the University or of the Principal or the management of any College or an Institution, as the case may be, and thereupon the Executive Council may confirm, modify or reverse the decision appealed against.

41. Provident and pension funds : (I) The University shall constitute for the benefit of its employees such provident or pension fund or provide such insurance schemes as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

(2) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925, (19 of 1925) shall apply to such fund, as if it were a Government provident fund.

42. Disputes as to constitution of authorities and bodies : If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Visitor whose decision thereon shall be final.

43. Constitution of Committees : Where any authority of the University is given power by this Act or the Statutes to appoint Committees, such Committees shall, save as otherwise provided, consist of the members of the authority concerned and of such other person, if any, as the authority in each case may think fit.

44. Filling of casual Vacancies : All casual vacancies among the members (other than ex officio members) of any authority or other body of the University shall be filled, as soon as' may be, by the person or body who appoints, elects or co-opts the member whose place has become vacant and person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

45. Proceedings of authorities or bodies not invalidated by vacancies : No act or proceedings of any authority or other body of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

46. Protection of action taken in good faith : No suit or other legal proceeding shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

47. Mode of proof of University record : Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872) or in any other law for the time being in force, a copy of any receipt, application, notice, order, proceeding or resolution of any authority or other body of the University, or any other document in possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as prima facie evidence of such receipt, application, notice, order, .proceeding, resolution or document or the existence of entry in the register and shall be admitted as evidence of the 'matters and transactions therein where the original thereof would, if produced, have been admissible in evidence.

48. Power to remove difficulties : (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

49. Statutes Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament :(1) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

(2) Every Statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to, the validity of anything previously done under that Statute, Ordinance or Regulation.

(3) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the Statute, Ordinance or Regulation or any of them but no retrospective effect shall be given to any Statute, Ordinance or Regulation so as to prejudicially affect the interests of any person to whom such Statute, Ordinance or Regulation may be applicable.

50. Transitional provisions : Notwithstanding anything contained in this Act and the Statutes,—

(a) the first Chancellor and first Vice-Chancellor shall be appointed by the Central Government in such manner, and on such conditions as may be deemed fit and each of the said officer shall hold office for such term, not exceeding five years, as may be specified by the Central Government;

(b) the first Registrar and the first Finance Officer shall be appointed by the Central Government and each of the said officers shall hold office for a term of three years;

(c) the first Court and the first Executive Council shall consist of not more than thirty-one members and eleven members, respectively, who shall be nominated by the Central Government and shall hold office for a term of three years;

(d) the first College Development Council shall consist of not more than eleven members, who shall be nominated by the Central Government and they shall hold office for a term of three years;

(e) the first Academic Council shall consist of not more than twenty-one members, who shall be nominated by the Central Government and they shall hold office for a term of three years:

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be, by the Central Government, and the person so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held office, if such vacancy had not occurred.

THE SCHEDULE

(See section 31)

THE STATUTES OF THE UNIVERSITY

1. The Chancellor : (1) The Chancellor shall be appointed by the Visitor from a panel of not less than three persons recommended by the Executive Council from amongst persons of eminence in the academic or public life of the country:

Provided that if the Visitor does not approve of any of the persons so recommended, he may call for fresh recommendations from the Executive Council.

(2) The Chancellor shall hold office for a term of five years and shall be eligible for reappointment:

Provided that notwithstanding the expiry of his term of office, the Chancellor shall continue to hold office until his successor enters upon his office.

2. The Vice-Chancellor : (1) The Vice-Chancellor shall be appointed by the Visitor from a panel of not less than three persons who shall be recommended by a Committee as constituted under clause (2):

Provided that if the Visitor does not approve of any of the persons included in the panel, he may call for a fresh panel.

(2) The Committee referred to in clause (1) shall consist of three persons, out of whom two shall be nominated by the Executive Council and one by the Visitor and the nominee of the Visitor shall be the convener of the Committee:

Provided that none of whom shall be an employee of the University or a member of the Executive Council, Academic Council or member of any authority of the University or connected with an institution associated with the University.

(3) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(4) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier, and he shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him.

(5) The emoluments and other conditions of service of the Vice-Chancellor shall be as follows:—

(i) the Vice-Chancellor shall be paid a monthly salary of Rs. 25,000 (fixed) per month and allowances other than house rent allowance, at the rates fixed by the Central Government from time to time, and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence. He would be entitled to free use of University Car;

(ii) the Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Executive Council with the approval of the Visitor from time to time

Provided that where an employee of the University or a College or an Institution maintained by it, or of any other University or any Institution maintained by or affiliated to such other University, is appointed as the Vice-Chancellor, he may be allowed to continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

Provided further that where such employee had been a member of any pension scheme, the University shall make the necessary contribution to such scheme;

(iii) the Vice-Chancellor shall be entitled to travelling allowances at such rates as may be fixed by the Executive Council;

(iv) the Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half-yearly instalments of fifteen days each on the first day of January and first day of July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half year, the leave shall be credited proportionately at the rate of two and-a-half days for each completed month of service;

(v) in addition to the leave referred to in sub-clause (iv), the Vice-Chancellor shall also be entitled to half pay leave at the rate of twenty days for each completed year of service and this half pay leave may also be availed of as commuted leave on full pay on medical certificate:

Provided that when commuted leave is availed of, twice the amount of half pay leave shall be debited against half pay leave due.

(6) If the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or if he is unable to perform his duties due to ill health or any other cause, the senior-most Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor:

Provided that if the Pro-Vice-Chancellor is not available, the senior-most Professor shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or until the existing Vice-Chancellor resumes to the duties of his office, as the case may be.

3. Powers and duties of Vice-Chancellor : (1) The Vice-Chancellor shall be ex officio Chairman of the Executive Council, the Academic Council, and the Finance Committee and shall, in the absence of the Chancellor, preside at the convocations held for conferring degrees, and at meetings of the Court.

(2) The Vice-Chancellor shall be entitled to be present at and address any meeting of any authority or other body of the University.

(3) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed and he shall have all the powers necessary to ensure such observance.

(4) The Vice-Chancellor shall exercise control over the affairs of the University and shall give effect to the decisions of all the authorities of the University.

(5) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegate any such powers to such person or persons as he deems fit.

(6) The Vice-Chancellor shall have the power to convene or cause to be convened the meetings of the Executive Council, the Academic Council, the Planning Board and the Finance Committee

4. The Pro-Vice-Chancellor : (1) Every Pro-Vice-Chancellor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor:

Provided that where the recommendation of the Vice-Chancellor is not accepted by the Executive Council, the matter shall be referred to the Visitor who may either appoint the person recommended by the Vice-Chancellor or ask the Vice-Chancellor to recommend another person to the Executive Council:

Provided further that the Executive Council may, on the recommendation of the Vice-Chancellor, appoint a Professor to discharge the duties of a Pro-Vice-Chancellor in addition to his own duties as a Professor.

(2) The term of office of a Pro-Vice-Chancellor shall be such as may be decided by the Executive Council but it shall not in any case exceed five years or until the expiration of the term of office of the Vice-Chancellor, whichever is earlier:

Provided that a Pro-Vice-Chancellor whose term of office has expired shall be eligible for reappointment:

Provided further that, in any case, a Pro-Vice-Chancellor shall retire on attaining the age of sixty-five years:

Provided also that the Pro-Vice-Chancellor shall, while discharging the duties of the Vice-Chancellor under clause (6) of Statute 2, continue in office notwithstanding the expiration of his term of office as Pro-Vice-Chancellor, until a new Vice-Chancellor or the existing Vice-Chancellor, as the case may be, assumes office:

Provided also that when the office of the Vice-Chancellor becomes vacant and there is no Pro-Vice-Chancellor to perform the functions of the Vice-Chancellor, the Executive Council may appoint a Pro-Vice-Chancellor and the Pro-Vice-Chancellor so appointed, shall cease to hold office as such as soon as the Vice-Chancellor is appointed and enters upon his office.

(3) The emoluments and other terms and conditions of service of a Pro-Vice-Chancellor shall be such as may be prescribed by the Ordinances.

(4) A Pro-Vice-Chancellor shall assist the Vice-Chancellor in respect of such matters as may be specified by the Vice-Chancellor in this behalf, from time to time, and shall also exercise such powers and perform such duties as may be assigned or delegated to him by the Vice-Chancellor.

5. Deans of Faculties : (1) Every Dean of a Faculty shall be appointed by the Vice-Chancellor from amongst the Professors in the Faculty for a period of three years and he shall be eligible for reappointment:

Provided that a Dean on attaining the age of sixty-two years shall cease to hold office as such:

Provided further that if at any time there is no Professor in a Faculty, the Vice-Chancellor, or a Dean authorised by the Vice-Chancellor in this behalf, shall exercise the powers of the Dean of a Faculty.

(2) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(3) The Dean shall be the Head of the Faculty and shall be responsible for the conduct and maintenance of the standards of teaching and research in the Faculty and shall have such other functions as may be prescribed by the Ordinances.

(4) The Dean shall have the right to be present and to speak at any meeting of the Committees of the Faculty, as the case may be, but shall not have the right to vote thereat unless he is a member thereof.

6. The Registrar : (1) The Registrar shall be appointed by the Executive Council on the recommendation of a Selection Committee constituted for the purpose and shall be a whole-time salaried officer of the University.

(2) He shall be appointed for a term of five years and shall be eligible for reappointment.

(3) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Ordinances:

Provided that the Registrar shall retire on attaining the age of sixty-two years:

Provided further that a Registrar shall, notwithstanding his attaining the age of sixty-two years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence or any other cause unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) (a) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers and academic staff as may be specified in the order of the Executive Council and to suspend them pending inquiry, to administer warnings to them or to impose upon them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause. (a)

(c) In a case where the inquiry discloses that a punishment beyond the power of the Registrar is called for, the Registrar shall, upon the conclusion of the inquiry, make a report to the Vice-Chancellor along with his recommendations:

Provided that an appeal shall lie to the Executive Council against an order of the Vice-Chancellor imposing any penalty.

(6) The Registrar shall be ex officio Secretary of the Court, the Executive Council and the Academic Council, but shall not be deemed to be a member of any of these authorities.

(7) It shall be the duty of the Registrar—

(a) to be the custodian of the records, the common seal and such other property of the University as the Executive Council shall commit to his charge;

(b) to issue all notices convening meetings of the Court, the Executive Council, the Academic Council and of any Committee appointed by those authorities;

(c) to keep the minutes of all the meetings of the Court, the Executive Council, the Academic Council and of any Committee appointed by those authorities;

(d) to conduct the official correspondence of the Court, the Executive Council and the Academic Council;

(e) to supply to the Visitor and the Chancellor copies of the agenda of the meetings of the authorities of the University as soon as they are issued and the minutes of such meetings;

(f) to represent the University in suits or proceedings by or against the University, sign powers-of-attorney and verify pleadings or depute his representative for the purpose; and

(g) to perform such other duties as may be specified in the Statutes, the Ordinances or the Regulations or as may be required from time to time, by the Executive Council or assigned to by the Vice-Chancellor

7. The Finance Officer :(1) The Finance Officer shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The Finance Officer shall be appointed for a term of five years and shall be eligible for reappointment.

(3) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be prescribed by the Ordinances:

Provided that a Finance Officer shall retire on attaining the age of sixty-two years:

Provided further that the Finance Officer shall, notwithstanding his attaining the age of sixty-two years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Finance Officer is vacant or when the Finance Officer is by reason of illness, absence or any other cause unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Finance Officer shall be ex officio Secretary of the Finance Committee but shall not be deemed to be a member of such Committee.

(6) The Finance Officer shall—

(a) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(b) perform such other financial functions as may be assigned to him by the Executive Council or as may be prescribed by the Statutes, the Ordinances or the Regulations.

(7) Subject to the control of the Executive Council, the Finance Officer shall—

(a) hold and manage the property and investments of the University including trust and endowed property;

(b) ensure that the limits fixed by the Executive Council for recurring and nonrecurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(c) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Executive Council;

(d) keep a constant watch on the state of the cash and balances and on the state of investment;

(e) watch the progress of the collection of revenue and advise on the methods of collection employed;

(f) ensure that the registers of buildings, land, furniture and equipment are maintained up-to-date and that stock-checking are conducted, of equipment and other consumable materials in all offices, Centres, Specialised Laboratories, Colleges and Institutions maintained by the University;

(g) bring to the notice of the Vice-Chancellor unauthorised expenditure and other financial irregularities and suggest disciplinary action against persons at fault; and

(h) call for from any office, Centre, Laboratory, College or Institution maintained by the University any information that he may consider necessary on the performance of his duties.

(8) Any receipt given by the Finance Officer or the person or person duly authorised in this behalf by the Executive Council for any money payable to the University shall be sufficient discharge for payment of such money.

8. The Controller of Examinations : (1) The Controller of Examinations shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The Controller of Examinations shall be appointed for a term of five years and shall be eligible for re-appointment.

(3) The emoluments and other terms and conditions of service of the Controller of Examinations shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Controller of Examinations shall retire on attaining the age of sixty-two years:

Provided further that the Controller of examinations shall, notwithstanding his attaining the age of sixty-two years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Controller of Examinations is vacant or when the Controller of Examinations is, by reason of illness, absence or any other cause unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Controller of Examinations shall arrange for and superintend the examinations of the University in the manner prescribed by the Ordinances.

9.The Librarian : (1) The Librarian shall be appointed by the Executive Council on the recommendations of the Selection Committee constituted for the purpose and he shall be a whole-time officer of the University.

(2) The Librarian shall exercise such powers and perform such duties as may be assigned to him by the Executive Council.

10. Meetings of Court : (1) An annual meeting of the Court shall be held on a date to be fixed by the Executive Council unless some other date has been fixed by the Court in respect of any year.

(2) At an annual meeting of the Court, a report on the working of the University during the previous year, together with a statement of the receipts and expenditure, the balance-sheet as audited, and the financial estimates for the next year shall be presented.

(3) A copy of the statement of receipts and expenditure, the balance-sheet and the financial estimates referred to in clause (2) shall be sent to every member of the Court at least seven days before the date of the annual meeting.

(4) Special meetings of the Court may be convened by the Executive Council or the Vice-Chancellor or if there is no Vice-Chancellor, the Pro-Vice-Chancellor or if there is no Pro-Vice-Chancellor, by the Registrar.

(5) Eleven members of the Court shall form a quorum for a meeting of the Court.

11. Quorum for meeting of Executive Council Seven members of the Executive Council shall form a quorum for a meeting of the Executive Council.

12. Powers and functions of Executive Council : (1) The Executive Council shall have the power of management and administration of the revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(2) Subject to the provisions of this Act, the Statutes and the Ordinances, the Executive Council shall, in addition to all other powers, vested in it, have the following powers, namely:-

(i) to create teaching and academic posts, to determine the number and emoluments of such posts and to define the duties and conditions of service of Professors, Associate Professors, Assistant Professors and other academic staff and Directors of Colleges and Institutions maintained by the University:

Provided that no action shall be taken by the Executive Council in respect of the number, qualifications and emoluments of teachers and academic staff otherwise than after consideration of the recommendations of the Academic Council;

(ii) to appoint such Professors, Associate Professors, Assistant Professors and other academic staff, as may be necessary, and the Directors of Colleges and Institutions maintained by the University on the recommendation of the Selection Committee constituted for the purpose and to fill-up the temporary vacancies therein;

(iii) to create administrative, ministerial and other necessary posts and to make appointments thereto, in the manner prescribed by the Ordinances;

(iv) to grant leave of absence to any officer of the University other than the Chancellor and the Vice-Chancellor, and to make necessary arrangements for the discharge of the functions of such officer during his absence;

(v) to regulate and. enforce discipline among employees in accordance with the Statutes and the Ordinances;

(vi) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University, and for that purpose to appoint such agents as it may think fit;

(vii) to fix limits on the total recurring and the total non-recurring expenditure for a year on the recommendations of the Finance Committee;

(viii) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, share or securities, from time to time, as it may think fit or in the purchase of immovable property in India, with the like powers of varying such investment from time to time;

(ix) to transfer or accept transfers of any movable or immovable property on behalf of the University

(x) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;

(xi) to enter into, vary, carry out and cancel contracts on behalf of the University;

(xiii) to entertain, adjudicate upon, and if thought fit, to redress any grievances of the employees and students of the University who may, for any reason, feel aggrieved;

(xiii) to appoint examiners and moderators and, if necessary, to remove them, and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic Council;

(xiv) to select a common seal for the University and provide for the custody and use of such seal;

(xv) to make such special arrangements as may be necessary for the residence of women students;

(xvi) to delegate any of its powers to the Vice-Chancellor, the Pro-Vice-Chancellor, the Directors, the Registrar or the Finance Officer or such other employee or authority of the University or to a committee appointed by it as it may deem fit;

(xvii) to institute fellowships, scholarships, studentships, medals and prizes; and to receive donations from the members of the general public and institutions, with due acknowledgement for establishing a Chair by contributing at least rupees one crore, in the name of the donor or in memory of any person desired; for creating foundations, not below rupees one crore in the name of the donor or in memory of any person desired; and for bearing the cost of any building or complex to the tune of not below rupees one crore in the name of the donor or in memory of any person desired;

(xviii) to provide for the appointment of Visiting Professors, Emeritus Professors; Consultants and Scholars and determine the terms and conditions of such appointments; and

(xix) to exercise such other powers and perform such other duties as may be conferred or imposed on it by the Act or the Statutes.

13. Quorum of meeting of Academic Council : Nine members of the Academic Council shall form a quorum for a meeting of the Academic Council.

14. Powers and functions of Academic Council : Subject to the provisions of the Act, the Statutes and the Ordinances, the Academic Council shall, in addition to all other powers vested in it, have the following powers, namely:—

(a) to report on any matter referred or delegated to it by the Court or the Executive Council;

(b) to make arrangements through Ordinances for the instruction and examination of persons other than those enrolled in the University;

(c) to promote research within the University and to require from time to time, reports on such research;

(d) to consider proposals submitted by the Faculties;

(e) to appoint committees for admission to the University;

(f) to recognise diplomas or degrees and other Universities and Institutions and to determine their equivalence in relation to the diplomas and degrees of the University;

(g) to fix, subject to any conditions accepted by the Executive Council, the time mode and conditions of competition for fellowship, scholarships and other prizes, and to award the same;

(h) to make recommendations to the Executive Council in regard to the appointment of examiners and if necessary, their removal and the fixation of their fees, emoluments and travelling and other expenses;

(i) to make arrangements for the conduct of examinations and to fix dates for holding them;

(j) to declare result of the various examinations, or to appoint committees or officers to do so and to make recommendations regarding the conferment or grant of degrees, honours, diplomas, titles and marks of honour;

(k) to award stipends, scholarships, medals and prizes and to make other awards in accordance with the Regulations and such other conditions as may be attached to the awards;

(l) to publish lists of prescribed or recommended text books and to publish syllabus or the prescribed courses of study;

(m) to prepare such forms and registers as are, from time to time, prescribed by Regulations; and

(n) to perform, in relation to academic matters, all such duties and to do all such acts as may be necessary, for proper carrying out of the provisions of this Act and the Regulations.

15. Faculties and Departments :(1) The University shall have such Faculties as may be specified in the Statutes.

(2) Every Faculty shall have a Faculty Board and the members of the first Faculty Board shall be nominated by the Executive Council for a period of three years.

(3) The composition, powers and functions of a Faculty Board shall be prescribed by the Ordinances.

(4) The conduct of the meetings of a Faculty Board and the quorum required for such meetings shall be prescribed by the Ordinances.

(5) (a) Every faculty shall consist of such Departments as may be assigned to it by the Ordinances:

Provided that the Executive Council may, on the recommendation of the Academic Council, establish Centres of Studies to which may be assigned such teachers of the University as the Executive Council may consider necessary.

(b) Each Department shall consist of the following members, namely:—

(i) Teachers of the Department;

(ii) Persons conducting research in the Department;

(iii) Dean of the School;

(iv) Honorary Professors, if any, attached to the Department; and

(v) Such other persons as may be members of the Department in accordance with the provisions of the Ordinances.

16. Board of Studies : (1) Each Department shall have a Board of Studies.

(2) The constitution of the Board of Studies and the term of office of its members shall be prescribed by the Ordinances.

(3) Subject to the overall control and supervision of the Academic Council; the functions of a Board of Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned School Board in the manner prescribed by the Ordinances—

(a) courses of studies and appointment of examiners for courses, but excluding research degrees;

(b) appointment of supervisors for research; and

(c) measures for the improvement of the standard of teaching and research:

Provided that the above functions of a Board of Studies shall, during the period of three years immediately after the commencement of the Act, be performed by the Department.

17. The Finance Committee : (1) The Finance Committee shall consist of the following members, namely:—

(i) the Vice-Chancellor;

(ii) the Pro-Vice-Chancellor;

(iii) one person to be nominated by the Court;

(iv) three persons to be nominated by the Executive Council, out of whom at least one shall be a member of the Executive Council; and

(v) three persons to be nominated by the Visitor.

(2) Five members of the Finance Committee shall form the quorum for a meeting of the Finance Committee.

(3) All the members of the Finance Committee other than ex officio members, shall hold office for a term of three years.

(4) A member of the Finance Committee shall have the right to record a minute of dissent if he does not agree with any decision of the Finance Committee

(5) The Finance Committee shall meet at least thrice every year to examine the accounts and to scrutinise proposals for expenditure.

(6) All proposals relating to creation of posts, and those items which have not been included in the Budget, shall be examined by the Finance Committee before they are considered by the Executive Council.

(7) The annual accounts and the financial estimates of the University prepared by the Finance Officer shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Executive Council for approval.

(8) The Finance Committee shall recommend limits for the total recurring expenditure and the total non-recurring expenditure for the year, based on the income and resources of the University (which, in the case of productive works, may include the proceeds of loans).

18. The Selection Committee : (1) There shall be Selection Committees for making recommendations to the Executive Council for appointment to the posts of Professor, Reader, Lecturer, Registrar, Finance Officer, Librarian and Principals of Colleges and Institutions maintained by the University.

(2) The Selection Committee for appointment to the posts specified in column 1 of the Table below shall consist of the Vice-Chancellor, a nominee of the Visitor and the persons specified in the corresponding entry in column 2 of the said Table:

TABLE

1	2
Professor	(i) The Dean of the Faculty. (ii) The Head of the Department, if he is a Professor. (iii) Three persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Professor is concerned.
Reader/Lecturer	(i) The Head of the Department. (ii) One Professor nominated by the Vice-Chancellor. (iii) Two persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Reader/Lecturer is concerned.
Registrar/Finance Officer	(i) Two members of the Executive Council nominated by it. (ii) One person not in the service of the University nominated by the Executive Council.
Librarian	(i) Two persons not in the service of the University who have special knowledge of the subject of Library Science/Library Administration, nominated by the Executive Council. (ii) One person not in the service of the University, nominated by the Executive Council.
Principal of College or Institution	Three persons not in the service of the University of whom two shall be nominated by the Executive Council and one by the Academic Council for their special knowledge of, or interest in, a subject in which instruction is being provided by the College or Institution.

NOTE 1.- Where the appointment is being made for an inter-disciplinary project, the head of the project shall be deemed to be the Head of the Department concerned.

NOTE 2.- The Professor to be nominated by the Vice-Chancellor shall be a Professor concerned with the speciality for which the selection is being made and the Vice-Chancellor shall consult the Head of the Department and the Dean of School before nominating the Professor.

(3) The Vice-Chancellor, or in his absence the Pro-Vice-Chancellor, shall convene and preside at the meeting of the Selection Committee:

Provided that the meeting of the Selection Committee shall be fixed after prior consultation with, and subject to the convenience of Visitor's nominee and the experts nominated by the Executive Council:

Provided further that the proceedings of the Selection Committee shall not be valid unless,—

(a) where the number of Visitor's nominee and the persons nominated by the Executive Council is four in all, at least three of them attend the meeting; and

(b) where the number of Visitors nominee and the persons nominated by the Executive Council is three in all, at least two of them attend the meeting.

(4) The procedure to be followed by the Selection Committee shall be laid down in the Ordinances.

(5) If the Executive Council is unable to accept the recommendations made by the Selection Committee, it shall record its reasons and submit the case to the Visitor for final orders.

(6) Appointments to temporary posts shall be made in the manner indicated below:—

(i) if the temporary vacancy is for duration longer than one academic session, it shall be filled on the advice of the Selection Committee in accordance with the procedure indicated in the foregoing clauses:

Provided that if the Vice-Chancellor is satisfied that in the interests of work it is necessary to fill the vacancy, the appointment may be made on a purely temporary basis on the advice of a local Selection Committee referred to in sub-clause (ii) for a period not exceeding six months;

(ii) if the temporary vacancy is for a period less than a year, an appointment to such vacancy shall be made on the recommendation of a local Selection Committee consisting of the Dean of the Faculty concerned, the Head of the Department and a nominee of the Vice-Chancellor:

Provided that if the same person holds the offices of the Dean and the Head of the Department, the Selection Committee may contain two nominees of the Vice-Chancellor.

Provided further that in the case of sudden casual vacancies of teaching posts caused by death or any other reason, the Dean may, in consultation with the Head of the Department concerned, make a temporary appointment for a month and report to the Vice-Chancellor and the Registrar about such appointment;

(iii) no teacher appointed temporarily shall, if he is not recommended by a regular Selection Committee for appointment under the Statutes, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee or a regular Selection Committee, for a temporary or permanent appointment, as the case may be.

19. Special mode of appointment : (1) Notwithstanding anything contained in Statute 18, the Executive Council may invite a person of high academic distinction and professional attainments to accept a post of Professor or any other equivalent academic post in the University on such terms and conditions as it deems fit and on the person agreeing to do so appoint him to the post.

(2) The Executive Council may appoint a teacher or any other academic staff working in any other University or organisation for undertaking a joint project in accordance with the manner laid down in the Ordinances.

20. Appointment for fixed tenure : The Executive Council may appoint a person selected in accordance with the procedure laid down in Statute 18 for a fixed tenure on such terms and conditions as it deems fit.

21. Recognised teachers : (1) The qualifications of recognised teachers shall be such as may be prescribed by the Ordinances.

(2) All applications for the recognition of teachers shall be made in such manner as may be laid down by the Ordinances.

(3) No teacher shall be recognised as a teacher except on the recommendation of a Selection Committee constituted for the purpose in the manner laid down in the Ordinances.

(4) The period of recognition of a teacher shall be determined by the Ordinances made in that behalf.

(5) The Academic Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw recognition from a teacher:

Provided that no such resolution shall be passed until notice in writing has been given to the person concerned calling upon him to show cause, within such time as may be specified in the notice, why such resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them have been considered by the Academic Council.

22. Committees : (1) An authority of the University may appoint as many standing or special Committees as it may deem fit, and may appoint to such Committees persons who are not members of such authority.

(2) A Committee appointed under clause (I) may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing it.

23. Terms and conditions of service and code of conduct of teachers, etc : (1) All the teachers and other academic staff of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

(2) The emoluments of members of the academic staff shall be such as may be prescribed by the Ordinances.

(3) Every teacher and member of the academic staff of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances.

(4) A copy of every contract referred to in clause (3) shall be deposited with the Registrar.

24. Terms and conditions of service and code of conduct of other employees : (1) All the employees of the University, other than the teachers and other academic staff shall, in the absence of any contract to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

(2) The manner of appointment and emoluments of employees, other than the teachers and other academic staff, shall be such as may be prescribed by the Ordinances.

25. Seniority list : (1) Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade and in accordance with such other principles as the Executive Council may, from time to time, prescribe.

(2) It shall be the duty of the Registrar to prepare and maintain in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of clause (1).

(3) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Executive Council whose decision thereon shall be final.

26. Removal of employees of University : (1) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in the case of the teacher or a member of the academic staff, and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee may, by order in writing, place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Executive Council the circumstances in which the order was made:

Provided that the Executive Council may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(2) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employees, the Executive Council in respect of teachers and other academic staff and the appointing authority in respect of other employees, shall have the power to remove a teacher or a member of the academic staff or other employee, as the case may be, on grounds of misconduct.

(3) Save as aforesaid, the Executive Council, or as the case may be, the appointing authority, shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months' notice or on payment of three months' salary in lieu thereof.

(4) No teacher, member of the academic staff or other employee shall be removed under clause (2) or clause (3) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(5) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of this Statute, a teacher, member of the academic staff or other employee may resign,—

(a) if be is a permanent employee, only after giving three months' notice in writing to the Executive Council or the appointing authority, as the case may be, or by paying three months' salary in lieu thereof;

(b) if he is not a permanent employee, only after giving one month's notice in writing to the Executive Council or, as the case may be, the appointing authority or by paying one month's salary in lieu thereof:

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Executive Council or the appointing authority, as the case may be.

27. Honorary degrees : (1) The Executive Council may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees

Provided that in case of emergency, the Executive Council may, on its own motion, make such proposals.

(2) The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw, with the previous sanction of the Visitor, any honorary degree conferred by the University.

28. Withdrawal of degrees, etc : The Executive Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw any degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:

Provided that no such resolution shall be passed until a notice in writing has been given to that person calling upon him to show cause within such time as may be specified in the notice why such a resolution should not be passed and until his objections, if any, and any evidence he, may produce in support of them, have been considered by the Executive Council.

29. Maintenance of discipline among students of University : (1) All powers relating to the maintenance of discipline and disciplinary action in relation to students of the University shall vest in the Vice-Chancellor.

(2) The Vice-Chancellor may delegate all or any of his powers referred to in clause (I), as he deems proper, to a Pro-Vice-Chancellor and to such other officers as he may specify in this behalf.

(3) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in exercise of his powers, by order, direct that any student or students be expelled, or rusticated, for a specified period or be not admitted to a course or courses of study in a College, Institution or Department or a Faculty of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, College, Institution or Department or a Faculty for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled.

(4) The Principals of Colleges and Institutions, Deans of Faculties and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective Colleges; Institutions, Faculties and teaching Departments in the University, as may be necessary for the proper conduct of such Colleges, Institutions, Faculties and teaching Departments.

(5) Without prejudice to the powers of the Vice-Chancellor the Principals and other persons specified in clause (4), detailed rules of discipline and proper conduct shall be made by the University. The Principals of Colleges, Institutions, Deans of Faculties and Heads of teaching Departments in the University may also make the supplementary rules as they deem necessary to the aforesaid purpose.

(6) At the time of admission, every student shall be, required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and other authorities of the University.

30. Maintenance of discipline among students of Colleges, etc : All powers relating to discipline and disciplinary action in relation to students of a College or an Institution not maintained by the University, shall vest in the Principal of the College or Institution, as the case may be, in accordance with the procedure prescribed by the Ordinances.

31. Admission of Colleges, etc., to privileges of University : (1) Colleges and other Institutions situated within the jurisdiction of the University may be admitted to such privileges of the University as the Executive Council and the College Development Council may decide on the following conditions, namely:—

(i) every such College or Institution shall have a regularly constituted Governing Body, consisting of not more than fifteen persons approved by the Executive Council and including among others, two teachers of the University to be nominated by the Executive Council and three representatives of the teaching staff of whom the Principal of the College or Institution shall be one. The procedure for appointment of members of the Governing Body and other matters affecting the management of a College or an Institution shall be prescribed by the Ordinances:

Provided that the said condition shall not apply in the case of Colleges and Institutions maintained by the Government which shall, however, have an Advisory Committee consisting of not more than fifteen persons which shall consist of among others, three teachers including the Principal of the College or Institution, and two teachers of the University nominated by the Executive Council;

(ii) every such College or Institution shall satisfy the Executive Council and the College Development Council on the following matters, namely:—

(a) the suitability and adequacy of its accommodation and equipment for teaching;

(b) the qualifications and adequacy of its teaching staff and the conditions of their service;

(c) the arrangements for the residence, welfare, discipline and supervision of students;

(d) the adequacy of financial provision made for the continued maintenance of the College or Institution; and

(e) such other matters as are essential for the maintenance of the standards of University education;

(iii) no College or Institution shall be admitted to any privileges of the University except on the recommendation of the Academic Council made after considering the report of a Committee of Inspection appointed for the purpose by the Academic Council;

(iv) Colleges and Institutions desirous of admission to any privileges of the University shall be required to intimate their intention to do so in writing so as to reach the Registrar not later than the 15th August, preceding the year from which permission applied for is to have effect;

(v) a College or an Institution shall not, without the previous permission of the Executive Council, College Development Council and the Academic Council, suspend instruction in any subject or course of study which it is authorised to teach and teaches.

(2) Appointment to the teaching staff and Principal of Colleges or Institutions admitted to the privileges of the University shall be made in the manner prescribed by the Ordinances:

Provided that nothing in this clause shall apply to Colleges and Institutions maintained by the Government.

(3) The service conditions of the administrative and other non-academic staff of every College or Institution referred to in clause (2) shall be such as may be laid down in the Ordinances:

Provided that nothing in this clause shall apply to Colleges and Institutions maintained by the Government.

(4) Every College or Institution admitted to the privileges of the University shall be inspected at least once in every two academic years by a Committee appointed by the Academic Council, and the report of the Committee shall be submitted to the Academic Council, which shall forward the same to the College Development Council and Executive Council with such recommendations as it may deem fit to make.

(5) The College Development Council and the Executive Council, after considering the report and the recommendations, if any, of the Academic Council, shall forward a copy of the report to the Governing Body of the College or Institution with such remarks, if any, as they may deem fit for suitable action.

(6) The Executive Council may, after consulting the College Development Council and Academic Council, withdraw any privileges granted to a College or an Institution, at any time it considers that the College or Institution does not satisfy any of the conditions on the fulfilment of which the College or Institution was admitted to such privileges:

Provided that before any privileges are so withdrawn, the Governing Body of the College or Institution concerned shall be given an opportunity to represent to the Executive Council as to why such action should not be taken.

(7) Subject to the conditions set forth in clause (1) the Ordinances may prescribe—

(i) such other conditions as may be considered necessary; and

(ii) the procedure for the admission of Colleges and Institutions to the privileges of the University and for the withdrawal of those privileges.

32. Convocations : Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

33. Acting Chairman of meetings : Where no provision is made for a President or Chairman to preside over a meeting of any authority of the University or any Committee of such authority or when the President or Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting.

34. Resignation : Any member, other than an ex officio member, of the Court, the Executive Council, the Academic Council or any other authority of the University or any Committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar.

35. Disqualification : (1) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University,—

(i) if he is of unsound mind; or

(ii) if he is an undischarged insolvent; or

(iii) if he has been convicted by a, court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(2) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in clause (1), the question shall be referred to the Visitor and his decision shall be final and no other proceedings shall lie in any civil court against such decision.

36. Residence condition for membership and office : Notwithstanding anything contained in the Statutes, a person who is not ordinarily resident in India shall not be eligible to be an officer of the University or a member of any authority of the University.

37. Membership of authorities by virtue of membership of other bodies : Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or body or the holder of that particular appointment, as the case may be.

38. Students Council : (1) There shall be constituted in the University, a Students' Council for every academic year, consisting of—

(i) the Dean of Students' Welfare who shall be the Chairman of the Students' Council;

(ii) twenty students to be nominated by the Academic Council on the basis of merit in studies, sports and extra-curricular activities; and

(iii) such number of elected representatives of students as may be specified by the Academic Council:

Provided that any student of the University shall have the right to bring up any matter concerning the University before the Students' Council if so permitted by the Chairman, and he shall have the right to participate in the discussions at any meeting when the matter is taken up for consideration.

(2) The functions of the Students' Council shall be to make suggestions to the appropriate authorities of the University in regard to the programmes of studies, students' welfare and other matters of importance, in regard to the working of the University in general and such suggestions shall be made on the basis of consensus of opinion.

(3) The Students' Council shall meet at least once in an academic year preferably in the beginning of that year.

39. Ordinances how made : (1) The first Ordinances made under sub-section (2) of section 32 may be amended, repealed or added to at any time by the Executive Council in the manner specified below.

(2) No Ordinance in respect of the matters enumerated in sub-section (1) of section 32 shall be made by the Executive Council unless a draft of such Ordinance has been proposed by the Academic Council.

(3) The Executive Council shall not have power to amend any draft of any Ordinance proposed by the Academic Council under clause (2), but may reject the proposal or return the draft to the Academic Council for re-consideration, either in whole or in part, together with any amendment which the Executive Council may suggest.

(4) Where the Executive Council has rejected or returned the draft of an Ordinance proposed by the Academic Council, the Academic Council may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Academic Council, the draft may be sent back to the Executive Council which shall either adopt it or refer it to the Visitor whose decision shall be final.

(5) Every Ordinance made by the Executive Council shall come into effect immediately.

(6) Every Ordinance made by the Executive Council shall be submitted to the Visitor within two weeks from the date of its adoption.

(7) The Visitor shall have the power to direct the University within four weeks of the receipt of the Ordinance to suspend the operation of any such Ordinance and he shall, as soon as possible, inform the Executive Council about his objection to the proposed Ordinance.

(8) The Visitor may, after receiving the comments of the University, either withdraw the order suspending the Ordinance or disallow the Ordinance, and his decision shall be final.

40. Regulations : (1) The authorities of the University may make Regulations consistent with the Act, the Statutes and the Ordinances for the following matters, namely:—

(i) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(ii) providing for all matters which are required by the Act, the Statutes or the Ordinances to be prescribed by Regulations;

(iii) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by the Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(3) The Executive Council may direct the amendments in such manner as it may specify, of any Regulation made under the Statutes or the annulment of any such Regulation.

41. Delegation of powers : Subject to the provisions of the Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.

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